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ABSTRACT

Between July 1998 and April 1999, the Center on Fathers, Families, and Public Policy held a series of colloquia that explored the institution of child support enforcement from the perspectives of low-income, never-married noncustodial fathers. These meetings, held in Chicago, Illinois; San Francisco, California; and Washington, D.C., were followed in October 1999 with a fourth colloquium that reviewed some issues from the first three conferences. This report summarizes the findings of the first three colloquia. A separately bound report, included with this document, contains the recommendations of all of the colloquia. Several issues recurred in this series of discussions. One was the problem of child support arrears, and another was the limited pass-through of child support resources from the state to the children. In the second and third colloquia, the focus was on problems in the child support system and the mixed messages it sends noncustodial fathers. The recommendations from all the colloquia are grouped into: (1) policy concerns; (2) difficulties from systemic contradictions; (4) the need for education related to child support; (5) the need for legal education and support for parents; and (6) issues related to the provision of services. (SLD)

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Negotiating the Child Support System. Report [and] Recommendations from a Discussion of Policy and Practice. Colloquium Series, 1998-1999

Marguerite Roulet

Center on Fathers, Families, and Public Policy

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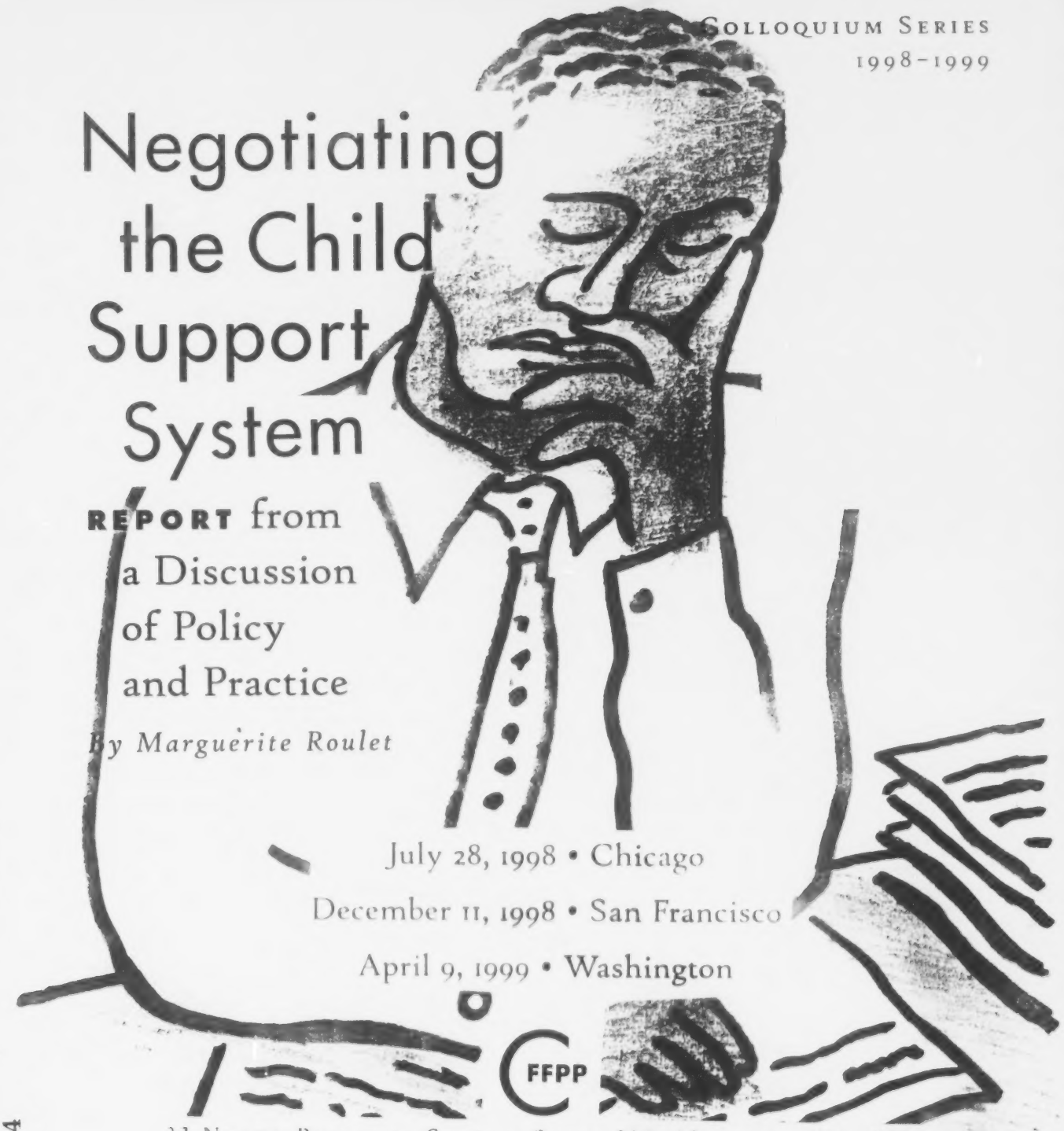
COLLOQUIUM SERIES
1998–1999

Negotiating the Child Support System

REPORT from a Discussion of Policy and Practice

By Marguerite Roulet



July 28, 1998 • Chicago

December 11, 1998 • San Francisco

April 9, 1999 • Washington

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A NOTE TO THE READER

THE colloquia in this series were held with the purpose of understanding individuals' experiences and concerns as they negotiate the child support system in different regions of the United States. The meetings were 5 to 6 hours long, and the format was one of open-ended discussions led by a facilitator. There was no effort to try to explore each situation in detail or to develop a complete picture of each incident described by participants. Instead, the purpose was to develop an understanding of the perceptions of people as they recalled their experiences. The reports were written with this objective in mind and are not intended to give complete renditions of incidents or provide legal information that may be pertinent to specific situations. We take this opportunity to thank Robin Whyte for proofreading this report.

The Center would like to thank The Ford Foundation, The Charles Stewart Mott Foundation, The William and Flora Hewlett Foundation, and The Public Welfare Foundation, whose support made these colloquia possible. We would also like to thank the Public Policy Institute of California for providing space for the San Francisco colloquium and the Urban Institute for providing space for the Washington colloquium. In addition, we would like to thank Margaret Stapleton of the National Center on Poverty Law, Maureen Waller of the Public Policy Institute of California, and Elaine Sorensen of the Urban Institute for sharing their professional expertise with us at each of the colloquia. Several other policy analysts, researchers, and legal advocates attended the colloquia, and we thank them for their participation and insights.

Most importantly, however, we would like to thank the fathers and case managers who generously shared their experiences with us. We hope that this publication will be helpful in making their voices heard. Fathers and case managers from the following organizations participated in the colloquia: Goodwill Industries Children UpFront Program (Racine, WI), Paternal Involvement Project (Chicago), Nehemiah Community Development Corporation (Madison, WI), Parents Fair Share (Los Angeles County), Bienvenidos Children's Center, Inc. (Los Angeles), Men's Mobile Health Unit (Oakland, CA), Center for Fathers, Families, and Workforce Development (Baltimore), Boston Healthy Start Initiative Men's Program (Boston), East District Families First (Richmond, VA), Urban League of Greater Madison, Inc. (Madison, WI).

DavidPate
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Jacquelyn Boggess

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Introduction

BETWEEN July 1998 and April 1999, the Center on Fathers, Families, and Public Policy held a series of colloquia that explored the institution of child support enforcement from the perspectives of low-income, never-married noncustodial fathers. The first of these meetings was held in Chicago on July 28, 1998; the second was held in San Francisco on December 11, 1998; and the third was held in Washington, D.C. on April 9, 1999.

Participants at these colloquia included low-income noncustodial fathers as well as caseworkers from community-based organizations that work with low-income noncustodial fathers. In addition, participants included a number of researchers, policy analysts, and legal analysts and advocates whose work has specifically centered on low-income noncustodial fathers and their situations in relation to the child support system.

The focus of the colloquia was on understanding not so much child support policy as such, but rather the experiences of noncustodial fathers as they navigate the system of paternity establishment and child support enforcement. The colloquia specifically tried to address areas that are of concern to low-income, never-married noncustodial fathers and to identify areas where actual child support practice appears to conflict with formal policy or its apparent intent. Each of the colloquia followed the same agenda and format. Since the child support system varies from state to state, the meetings were held in different regions of the country in order to explore whether the experiences of low-income noncustodial fathers are largely consistent or vary tremendously by region.

In general, we found that many of the issues raised at the different colloquia were similar in spite of the geographic differences. While there were many specific issues that differed, the overarching issues remained largely the same. The following reports can thus be read not only as individual reports of each colloquium, but also as an overall report of different aspects of people's experiences. While the first report focuses on some of the specific issues raised by participants (e.g., arrears policy), the second focuses more on participants' sense of the child support system overall, and the third focuses on the emotional experiences of many low-income noncustodial fathers as they navigate the child support system.

In addition to these colloquia, CFFPP hosted a final colloquium on October 21 and 22, 1999, which included many of the participants from the first three colloquia as well as some new participants. The purpose of this last colloquium was to discuss specific issues that had emerged over the course of all of the meetings and consider ways in which to address them. The recommendations from all of the colloquia are presented in a separate publication (Negotiating the Child Support System: Recommendations from a Discussion of Policy and Practice), which can be read in conjunction with the current publication.

Negotiating the Child Support System

A Discussion of Policy and Practice

THE first colloquium was held in Chicago on July 28, 1998, and included the following participants: a researcher whose work has focused on low-income, never-married noncustodial fathers; a researcher whose work has focused on the child support system and its implications for low-income, never-married noncustodial fathers; a lawyer whose work has centered on poverty law related to government assistance and on legal analysis and advocacy for programs serving low-income, never-married parents; and four caseworkers and six fathers from community-based programs in Illinois and Wisconsin that serve low-income, never-married, noncustodial fathers.

The Issues

OVER the course of the discussion, a broad range of issues were raised that were specific to individual situations. Many of these share similarities with one another, however, and can be classed within the following general categories: arrears and retroactive support payment, pass-through, modification of orders, flexibility of the system and legal representation, child welfare, and conflict.

Arrears and Retroactive Support

ONE of the central concerns that was repeatedly raised over the course of the discussion was that of arrears. Colloquium participants unanimously pointed out that child support arrears are a very problematic issue for low-income fathers. In the experience of several of the fathers, as well as of the caseworkers and researchers, it became apparent that, for diverse reasons, many never-married fathers are not in a position to pay child support in accordance with the order at the moment their child is born. This sets up a conundrum in which, when they do pay support, they find themselves responsible for paying not only the support order but also arrears and interest on the arrears.

For example, one father indicated that in spite of his and his child's mother's efforts to establish paternity and have an initial child support order set on behalf of his child, the child support official repeatedly delayed these meetings, and he did not, as of the time of the colloquium, have an order. Moreover, in spite of his specific request, he was told he

could not pay child support ahead of time, before such an order was set. Consequently, in spite of his efforts to proceed with paternity establishment and child support payments in a timely fashion, he is concerned that, once his order is set, he will be faced with owing retroactive support in addition to his current support.

Several other participants indicated that many fathers are unaware that they have fathered a child until well after the child is born (in several cases referred to at the colloquium, the fathers did not know until their child was a year old). In spite of their lack of knowledge, the fathers are held responsible for child support during that time, and the amount owed is potentially increased by the amount of interest that has accrued. (In Wisconsin that amount is 18% per year, an amount participants felt was significantly higher than low-income fathers could afford to pay.)

In most of the cases discussed, child support was owed to the state because the mother of the child received government assistance in the form of Temporary Assistance to Needy Families (TANF) (or, formerly, AFDC), and the government began child support proceedings (a requirement that many participants pointed out has been heightened under TANF). By the logic of this arrangement, government support that is given to mothers and children is offset by the child support fathers pay to the government (of which only a portion is passed on to the children; the rest is used to reimburse the state for support provided to the child). However, several of the fathers indicated that even though their child(ren) and their child(ren)'s mother did not receive TANF or AFDC, they owed retroactive payments or arrears on medical support (which is included in many child support orders) and the mother's "lying-in" fees at the hospital, if the mother was receiving Medicaid at the time of the child's birth. This represented a cost the fathers had not anticipated. Moreover, in addition to the added financial burden, many participants also questioned the ideological validity of holding men financially responsible for such "lying-in" fees.

As an indication of the severity of the impact of added costs, retroactive payments, and arrears, one father stated that, having failed to pay child support formally for two of his children many years ago (he paid informally, apparently unaware of the specific order which had been entered against him for support of the children), he now continues to pay child support to the state although they have already reached the age of majority and thus no longer receive child support. At the same time that he is paying child support that no children receive, he and his second wife also support her child from a previous relationship who resides with them. This father felt that, as currently structured, the child support system is unable to acknowledge either the efforts he currently expends on behalf of his wife's child or the informal support he originally contributed to his children by his former wife. His overarching sense was that "the system" makes fathers feel as though they are "no good" if they cannot or do not pay support in the officially sanctioned way.

Pass-Through

ANOTHER concern fathers, caseworkers, and researchers discussed, often in relation to the payments associated with arrears, was the pass-through. Under TANF, the federal requirement for the $50 pass-through of child support to children has been eliminated; in fact, federal TANF money may not be used for such a pass-through. The majority of states have decided not to use state funds to accommodate a pass-through. Colloquium participants repeatedly noted that the failure to pass on child support to the children was demoralizing for low-income fathers who must struggle financially to meet their child support obligations. As one father put it:

> It's like: you got a wall here, you see a little light, and you try to run toward the light. They cut that off. You look up, see a little light, you run toward that, [they] cut you off again. It's like you look at it, and it's just so pointless.

Both Illinois and Wisconsin are among a minority of states that do provide a state pass-through. Wisconsin is in fact the only state that uses state funds to pass through the total amount of the child support payment and disregards the child support amount when calculating TANF benefit levels. Even so, all of the fathers and caseworkers present at the colloquium indicated that they were unaware of a situation in which all of the child support paid was actually passed on to the children. Fathers faced such large arrears (and interest payments on the arrears), that often the majority and sometimes the entire amount of their paychecks was garnished for the purposes of paying current and past child support debts. (It is important to note that, by law, a state is not permitted to garnish a father's entire paycheck. However, one of the fathers present at the colloquium indicated that this had happened to him.)

The limited pass-through of resources to the children has the effect of increasing tension between parents, as well as of creating incentives for potential welfare fraud in the form of accepting informal payments if the custodial parent receives government assistance. As one father explained, conflict between parents is likely to arise when the father is paying a large sum of money, and yet the mother feels that her child is receiving very little support from the father. Moreover, he added, most fathers who see that their children are in need will support their children beyond the level required by their formal support order if they are able. This, however, exposes the mother of the children to charges of welfare fraud. Thus, a father who chooses to support his children beyond the formal requirements is not in a position to bring this to the attention of the child support office or a judge without thereby harming the custodial parent of the children. By the same token, however, were the parents to make this information public, it would be likely that not all of the additional funds would go to support their children, but rather would be used to pay back arrears and interest and to reimburse the government for other expenses.

'I paid child support for—oh god, I called it my rental fee to have her . . . I felt like an uncle not a father.'

Modification of Orders

RELATED to the issues of arrears and the limited pass-through, many colloquium participants felt that, in spite of the official policy that child support orders can be modified to reflect the true financial situations of fathers, in practice the process of modification is lengthy, time-consuming, confusing, and often difficult.

'You don't understand what's happening, and all you understand is pay, pay, pay.'

Several fathers present at the colloquium indicated that (in spite of laws to prevent this), they had had several experiences in which most if not all of their paychecks were garnished for child support. In addition, several times when they had tried to have their order amounts modified to reflect changes in their financial circumstances, they received no modification. This experience was further corroborated by others at the colloquium who noted that, in their experience as caseworkers and researchers, they found the modification process to be routinely slow in responding to fathers' changed circumstances and often ultimately unresponsive to these changes.

As one caseworker noted, most of the fathers he has worked with over the years have been willing to pay child support when they have been employed. It is primarily in the context of losing employment that they experience difficulties in paying child support. However, it is also at this time that they tend most to experience difficulties with child support enforcement and its inability to respond to their situations. In fact, he mentioned that thus far he knows of no father who has received a modification upon requesting one.

A similar point was made by one of the researchers who stated that many of the fathers she had interviewed were unable to receive modifications from judges who doubted their lack of employment or questioned the reasons for the request. Thus, although it was acknowledged that noncustodial fathers are accorded the right to have a modification review, this by no means translates into such a modification being granted, in spite of apparent substantial need. In addition, the processes themselves are confusing: for example, none of the fathers attending the colloquium were aware of the difference between a modification review (which is an administrative tool used by the office of child support enforcement and based on a legislative timetable) and a petition to the court for modification (which can be initiated by a party to the child support case at any time).

Several participants also discussed the additional difficulties that arise for fathers whose children have different mothers. While Wisconsin guidelines determine specific child support amounts relative to the number of children a father has with one mother (17% for one child, 25% for two children, etc.), one of the fathers from Wisconsin whose children had different mothers indicated that his order amounts were not changed to reflect multiple children. Instead, his orders were

set separately for each of the children, at a level that was higher than the rate would have been had they been calculated together. Other participants indicated that, according to their experience, Illinois child support payments increase by 100% for each additional child a father has with separate mothers. In this regard, one participant discussed the situation of a father who had three children by different mothers and paid 20% of his income in child support for each child.

Flexibility of the System and Legal Representation

THE concerns about insurmountable arrears, limited pass-through, and the difficulty of having orders modified spoke to the concern of many participants that the child support system as currently structured is not flexible enough to address the needs of low-income, never-married noncustodial fathers. As one caseworker stated, "These fathers feel like they're being penalized because they didn't get married and they can't afford to take care of their children. They're being penalized twice." The processes involved in establishing paternity and organizing child support are intimidating and often unclear, and several fathers consistently stated that they did not feel that their concerns were heard or addressed. Moreover, they indicated that they were often made to feel like criminals. As one father put it:

> You walk up in the court, it's like these people are convicted felons. They're nervous. Most people, you have to coach them to come to court. I mean, I just see people more afraid to go to court for child support than a domestic violence charge, because at least they know [in a domestic violence case], maybe, what's going to happen next. The child support system doesn't have any representation. . . . Most people do not acknowledge that when a person goes to child support, they're sitting up in there, like, dumbfounded. I mean, you're just sitting there, you wait for these people to talk, and most times they're talking over your head. You don't understand what's happening, and all you understand is pay, pay, pay. And what people realize is, basically, when you're going to court, at least you have a lawyer telling you "well, you can't do this and you can't do that" [in a criminal case]. But a lot of young men don't even know when you're in court what you could probably say to get your child support lowered or how could you go about doing this, how can I go about doing that. You're just sitting there dumbfounded, so, if they say, "well, you gotta pay $150 a week," you're just, like, "Okay." You feel like, "at least I'm not in jail."

Several fathers and caseworkers mentioned situations in which fathers were treated inappropriately, often in ways that had a direct impact on their parenting situations or ultimate child support order amounts. For example, one participant mentioned a case in which a father on whose behalf he was working was deliberately left uninformed of the date to appear in court so that he would be in default. Perhaps

more disturbingly, participants discussed another case, wherein the state's attorney for the prosecution was said to have advised and convinced a father (the defendant in the case) to give up his claim to parentage. This action would represent a clear conflict of interest on the attorney's part and violate the due process rights of the father.

In general, many of the participants felt that the child support system as it is currently organized is largely inflexible — a situation that is particularly problematic for low-income fathers. Their precarious financial and social positions make their situations more unpredictable and leave them vulnerable to sanctions that are disproportionately harsh relative to fathers in more secure positions (e.g., through the assessment of fines, service plan requirements set by child welfare offices, imprisonment if unable to pay or follow work plans, etc.). As one caseworker put it:

'The child support system in Wisconsin, I think, is pretty clear in that, if you don't pay, you go to jail.'

> The child support system in Wisconsin, I think, is pretty clear in that, if you don't pay, you go to jail. And they put pressure on you like that: "either pay or go to jail." I think one of the biggest problems is distinguishing those people who have the ability to pay and won't pay from those people who won't pay who can't pay. . . . If you can't pay, you just can't pay. And the system doesn't recognize it. . . . They're not distinguishing between those sets of people, and that's very, very unfortunate. That's something that the child support system and the welfare system need to be waking up to.

Many participants presented examples from their own or others' experiences that indicated a contradiction between their particular situation and the formal child support requirements they had to meet. For example, one father related that his local Office of Child Support Enforcement had informed him that, even though he was residing with his child and his child's mother, he should continue to pay child support. He was made to understand that, if he had the order suspended while he lived with his child and subsequently became a nonresident father, he would be responsible for paying the child support amount that would have been calculated during the period that he lived with his child. Similarly, a caseworker told of the situation of a father he works with who has been living with his child since the child's mother (who was the custodial parent) left the household. Even though he is the de facto custodial parent, he continues to make formal child support payments. Neither the father nor his caseworker has been able to determine who is receiving the formal payments (the father and child do not), and neither has been able to receive assistance from the Office of Child Support Enforcement to determine how to alter the overarching situation to acknowledge his current role as custodial parent.

These situations, which all differ in their specifics, speak to the more general problem of noncustodial fathers with few resources having to deal with a system that is inflexible and has difficulty accommodating their particular situations. The fathers and mothers are also not afforded legal representation because they lack the resources to hire private

attorneys, and legal services are almost nonexistent. This lack of representation is all the more significant in contexts in which parents are asked to understand complex legal and administrative processes that have very serious implications for their own and their children's well-being. Many participants indicated that fathers feel overwhelmed and intimidated by a system in which even the roles of the personnel involved can be unclear. As one caseworker put it:

> The court system and child support system is very intimidating to these guys; intimidating to the point where they will not show up, they will not go up and modify anything. And when they go to these caseworkers or the front-line staff or the judges, some of them are not heard. 'Lack of representation,' call it what you want, but it is very intimidating. I get intimidated. I don't have a case in child support court. I get intimidated going to any kind of court, standing in front of the judge, or talking to these front line workers. On occasion, I've gone to child support court for a presentation, and go to the front desk person and try to explain why I'm there, and they tell me to sign my name and sit down. And until I see somebody who I'm supposed to be meeting with, I will not be seen by anybody. I've been late for meetings and presentations, sitting down, not getting by that front line worker, and then explaining to the person what happened. So, it is very intimidating. And I don't know whether it's the color of my skin. I mean, I thought I was dressed nice. It's a very intimidating setting. So, let's take into account some of the things that these guys go through. They feel powerless when they go in there, and the workers there act accordingly to promote this intimidation factor.

'They feel powerless when they go in there, and the workers there act accordingly to promote this intimidation factor.'

Child Welfare

THE concerns about inflexibility and lack of representation were nowhere more apparent than in regard to child welfare issues. The fathers present at the colloquium expressed tremendous concern that they, as noncustodial parents, would not be given, or even considered for, custody should anything happen to their children's mothers or custodial parents, and many of them had made specific inquiries into this issue. For example, some had tried to determine whether paternity acknowledgment was sufficient to enable them to become custodial parents if this became necessary; others worried about potential charges being brought against their children's mothers and their own ability to ensure that the children not be placed in the foster care system; still others discussed the difficulties often entailed for parents as they tried to meet diverse service plan requirements necessary for them to remain with or gain custody of their children in the event the custodial parent was declared unfit.

The feeling among many noncustodial fathers and caseworkers was that they are not necessarily considered by child welfare offices to be viable potential custodial parents if something adverse happens to the custodial parent. Moreover, the processes within the child welfare system can create conflict and competition between custodial and noncus-

todial parents. As one caseworker put it:

> It is very rare that that happens, that if, say for instance (and we get a lot of cases like this), that, for whatever reason, the mom is strung out on drugs, the kids are taken. It is very rarely that custody will be given to the father automatically. What usually happens . . . : they're supposed to do a diligent search for the father. Sometimes that doesn't really happen, because sometimes it's easier not to search, it's easier on a caseworker's job or workload not to search and not to really look hard for the father. Then if there is a father, it's the assumption of, "Where were you? Why weren't you here to really monitor this and get your kid? And now we had to do it." So it becomes a race now. The father gets a service plan; the mother gets a service plan. And it becomes a race; it becomes a race to see who finishes the service plan in order to get or regain custody . . . A lot of times they presume that the fathers who are in these situations, they don't really consider them as parents.

'A lot of times they presume that the fathers who are in these situations, they don't really consider them as parents.'

Conflict

FINALLY, the issue of familial conflict was repeatedly brought up in the colloquium as a problem that is exacerbated by the system of child support. Not only was child support discussed as a tool that is often used by custodial and noncustodial parents in struggles with one another, but the structure of child support was also thought to be directly responsible for creating family conflict. The problems associated with dealing with large debts from arrears, limited pass-through, difficulties with modifying orders to reflect changes in circumstances, higher rates for fathers with children who have different mothers, and the pervasive sense that the system approaches noncustodial fathers as problematic and potentially criminal were all acknowledged to exacerbate tensions between mothers and fathers and make it more difficult for them to be able to work together in support of their children.

Recommendations

IN addition to the issues listed above, colloquium participants mentioned many other issues that are problematic for low-income noncustodial fathers as they navigate the child support system, such as the additional problems faced by fathers who have been incarcerated, the inability of the child support enforcement system to deal with the issue of visitation, and the increasing pressures being put on the mothers of the children.

In turn participants discussed several recommendations they had for improving various aspects of child support. These included the following:

• incorporating means by which certain actions, such as regular payment of child support or community service or evidence of child care, could

result in the reduction of arrears;

• dealing with the issue of visitation at the same time that the issue of child support is dealt with (though not in terms of linking payment of child support to visitation);

• meeting the needs parents have for legal representation or at the very least ensuring that they are properly informed of the implications of different actions and procedures;

• providing some means by which processes (especially administrative processes) can become more flexible;

• rethinking the way in which child support is paid out, in particular in regard to the pass-through (possibly using the funds states receive from child support to support services for noncustodial parents).

While these recommendations were raised in the context of discussion and are certainly not exhaustive, they do bespeak some of the more central concerns colloquium participants had about the current system of child support enforcement and its ability to appropriately address the situations of low-income, never-married noncustodial fathers and their families.

Negotiating the Child Support System

REPORT ON THE SAN FRANCISCO COLLOQUIUM —DECEMBER 11, 1998

A Discussion of Policy and Practice

THE West Coast colloquium was held in San Francisco on December 11, 1998, and included the following participants: two researchers whose work has centered in part on the child support system and its implications for low-income, never-married noncustodial fathers; a lawyer whose work has centered on poverty law related to government assistance and on legal analysis and advocacy for programs serving low-income, never-married noncustodial fathers; and ten caseworkers and fathers from community-based programs in southern and northern California that serve low-income, never-married noncustodial fathers.

The Issues

AT the Midwest colloquium, many issues were raised that were discussed within that colloquium's report in terms of the broad categories of: arrearages and retroactive support payments, pass-through of support payments, modification of orders, flexibility/rigidity of the system and

need for legal representation, child welfare issues, and conflict between parents and other family members. At the West Coast colloquium many of these same issues were raised, but in this context they were raised within a broader overall critique of the system of child support enforcement. In this report we will therefore focus primarily on these larger issues, bringing to the fore some of the central concerns participants expressed about child support enforcement as an institution. Although specific aspects of child support enforcement (such as arrearage policies and the pass-through of support) informed participants' overall impressions of child support enforcement, it is to their general sense of the child support system that we hope to direct attention in this paper.

Lack of Information

PERHAPS the issue that was raised most frequently by participants was the extent to which the child support system is difficult to comprehend and hence to negotiate. Both noncustodial fathers and caseworkers expressed confusion over how to manage "the system" and the various processes that are a part of it. In spite of the fact that child support enforcement is increasingly represented in government and media campaigns as reaching out to noncustodial parents, most participants at the colloquium felt that there was little information available to noncustodial parents that is easily understandable and, hence, useful. One participant told of a court experience in a Midwestern city in which a judge whose work centers on paternity and child support issues expressed dismay with the child support system, noting that every day parents and children come through her court and leave not knowing or understanding what has happened to them.

Several of the participants expressed their own sense of confusion in dealing with the child support system and indicated that they felt they were at the mercy of the front line workers at the child support offices (in California, the District Attorneys' offices). Some participants indicated that they had tried to work their way through the system. As one father put it:

> All I knew was it's just a great big old building. You went in there and that's where you started and, you know, I mean I can follow directions fairly well. "Okay, if I go up to the information window, you tell me what you want" . . . .You start going through the steps. Certain people, well okay the lady at the front desk said, "Well, you need to go into this particular department, go stand in this line, this window here" and then you get up there and they say, "Well, okay, this, this, this." They get you a bunch of forms and you go sit down in another room and you start filling them out. And you bring `em back and you give `em to the window and then you wait another hour, hour and a half, and then they come back to you, call you in and review your paperwork and say, "Thank you. Fine."

However, several participants (including those who said they had begun

their cases in this way) suggested that the process was not so straightforward. One of the primary obstacles participants said they faced was a lack of interest, and sometimes hostility, on the part of child support enforcement officials. They indicated that their files were easily lost by officials who had no interest in pursuing their cases (when they opened cases voluntarily as putative fathers), that in those contexts they often received no services and were told to return at a future time, and that in general they did not expect to be treated justly by the system because of negative attitudes toward noncustodial fathers who had difficulties paying child support. Several participants explained that it had been almost a relief for them to have been mandated into a court-ordered program for noncustodial parents that carried with it an increased risk of sanctions for noncompliance, because it was only through their involvement in that program that their cases were dealt with appropriately.

'They're still gonna file a child support order with or without the noncustodial parent being there.'

This sense that noncustodial parents were unable to negotiate the system on their own was confirmed by several of the caseworkers who noted that it was their experience as well that noncustodial fathers were served only when they were involved in community-based organizations or programs for noncustodial parents. As one caseworker pointed out, she herself had come to be known as "difficult" within the Los Angeles District Attorney's office when she began to make numerous inquiries for information and explanations on behalf of the noncustodial fathers in her program:

> When [our program] started in '94, we as county workers really didn't know the system per se. Even though it's a county department like we were, it's a whole different system. And after being in the program for so many years, I really got to see that the District Attorney per se is not for the noncustodial parent. So I had to do my own investigation. I asked so many questions they got sick of me at the DA's office. But I figure, "You know, . . . we're here for the noncustodial parent, you're not." So I think it's only fair to them that they should know why this and this and this happen. And we got lots of flak from the DA's office, like telling us to back off. And, fine, I told [another caseworker], "I'm not backing off . . . I don't care if they send me dirty notes or dirty letters, I don't care what they do." And I found out, these guys could do so many things that when they started to do so many things, I became the bad name to the District Attorney's office. Basically I don't care.

This attitude on the part of child support officials further underscored the belief among fathers and caseworkers present that the child support system (media campaigns to the contrary) is not truly interested in assisting noncustodial parents in meeting their child support obligations. Instead, they felt, the system of child support enforcement is essentially directed at fulfilling its primary directive of collecting child support, either in direct support of custodial families or in reimbursement of state and federal governments for prior public support of children and their custodial parents. Given this purpose, they argued, it would appear that the system is better served by not assisting noncustodial parents and by allowing continued confusion.

Systemic Difficulties

THE sources of confusion, as laid out by participants, appeared to be two-fold, with one essentially deriving from the other. To begin with, participants noted that the child support system is designed to work even in the absence of individuals' participation. Thus, several of the participants noted that they had been either legally established as the father of a child or had child support orders set without their knowledge. (This possibility of a default order is true for virtually all civil judicial procedures. However, in this context it has added to the confusion and frustration of the noncustodial parents who participated in the colloquium.) In California there is no requirement that people be personally served when an administrative or legal process is initiated against them. Thus, one caseworker suggested, the District Attorney's office contends that in instances where noncustodial parents are unaware of the birth of a child, if the office mails a notification about an impending hearing to their last known address, even if they never respond, they can be said to have been served and can be determined to be the parent by default. Such actions are taken in establishing support orders as well, an issue that was critical to many of the participants who faced large arrearages for failure to pay support orders of which they had been unaware (but about which they had ostensibly been informed). As one caseworker noted:

> When I talked to some of the representatives from the DA's office, as long as they can establish a location of where the father may or may not be living, they send over the court papers. Now, if the father does not live there and it comes back, they're still gonna file a child support order with or without the noncustodial parent being there. So, a lot of these guys that may have moved didn't know and get these orders on them . . . . Later on they find out because, "Where's my income tax [refund]?" or "I'm here to renew my drivers license." "Okay, well, here, you gotta pay the fee." All of a sudden it comes up, "I'm sorry, but it's been suspended." Never knowing, no one's ever knowing these issues.

Moreover, the determinations that are made with or without individuals being present have become increasingly difficult to alter at a later time. Thus, for example, participants noted instances in which a court refused to review a questionable determination of paternity, or would not acknowledge support payments that occurred without a court order, or was unable to retroactively modify a support order for someone who began receiving disability because of an illness. In each instance the situation had occurred as a result of a lack of knowledge, and in each instance the local office of child support enforcement was unable or unwilling to redress the resulting wrong after the fact (i.e., a wrong finding of paternity, a presumption of nonsupport in the face of evidence to the contrary, a support order that no longer reflected the noncustodial parent's earnings or earning capacity).

The organization of the child support system such that it can proceed without the active participation of individuals and that some determi-

nations, once made, cannot be retroactively altered leads, in turn, to a second source of difficulties, namely the common occurrence of mistakes that can have irreversible effects on individuals' situations. Thus, for example, participants mentioned discrepancies between different states' calculations of support they owed that amounted to a difference in arrearage amounts owed, discrepancies between two counties regarding the suspension of a license and the amount of an arrearage, discrepancies between a state and a county within the state in recognizing an amnesty program for noncustodial parents behind on child support payments, and a mistake that led to a support order of $15,000 for a father who was in fact the custodial parent of his child.

These mistakes were only in some instances acknowledged as such by the child support system as of the time of the colloquium, and even in these instances were not easily or quickly corrected. As the custodial father described his situation:

> In '95 I was awarded custody of my child . . . . They sent me a letter saying they were going to suspend my license, garnish my wages. I went to the office. I showed them my . . . I owed $15,000. I go, "I have a court order that I have [my daughter]. She lives with me now. It says here, it specifies here, that I no longer have to pay child support." "No, well, there must be something. You're mistaken." I go, "No, look here's the damn paper." "No," she points to this and says, "Let me go talk to my supervisor." Talks to the supervisor: the balance was zero. But they were telling me that I owed $10,000 to 15,000 that I had outstanding. Anyway, . . . I proved to them that I owed nothing. She said, "Well, we'll send you a new copy of your balance that you say you have." Fine. And I finally got it a year later. And in between that time, employers were saying that they received a letter from the county, they were gonna garnish wages.

'It's a long process, just to have a modification done. And all this time I'm living on $420 and, to be honest, during this time I had to go homeless in my car.'

In addition to instances of "mistakes," participants noted numerous occasions on which the bureaucracy of child support enforcement was either incomprehensible or slow, both of which could have devastating consequences. For example, one father found it inconceivable and illogical that he had been arrested and jailed for six months for failure to pay child support, but that the entire time he was in jail his child support order remained in place, his arrearages grew, and the interest on his arrearages continued to accrue. Even as he was in jail as a result of his arrearages, for the six month period that he was in jail and unable to pay his child support debt, the debt continued to grow.

Another father described the consequences of dealing with a system that can be slow and cumbersome:

> I had a personal experience with modification. Before I ever met [a caseworker] and the program years ago, I had 65% of my wages just automatically [garnished] and to me that was, like, "Oh my god, I got $420 to live on a month now". So, somebody spoke of legal aid and I went to legal aid and they said, "Well, you have a full-time job." And I said "Yes, but of that full-time job —" "Doesn't matter. You have a full-time job. We can't help you." So, there went legal aid. So, there I was looking at this huge courthouse, having to start there because that's where you start. You go in and they give you all this paper-

> work. "Fill all this paperwork, three copies each, in between these put in this blue sheet of paper and if they're not in this order we can't take them." And I'm like "Phhh." It's overwhelming for me. Okay, it took me two weeks to do it. "Now you gotta go to the other courthouse, file here, three months later and you'll come back in court." "Well, I'd like to file for a pro bono attorney." "Okay, another month and we'll have a hearing for you." All this, it's a long process, just to have a modification done. And all this time I'm living on $420 and, to be honest, during this time I had to go homeless in my car.

'That child is now never gonna have an active, loving father. Because that man doesn't think he's the child's father.'

Several participants discussed the bureaucratic difficulties and financial costs they faced when they tried to alter the status of their situations. As one father stated:

> Unfortunately, the system doesn't work like that for us noncustodial parents. You know, it's sad that we have lawyers, like you said, they're like this. They chase these cases, they know what they can get, they tell you—you know, you pacify a person—you know, "This is what we're gonna go for, this is what we're gonna do for you, you just sign this check right here, and once you do that, then we're gonna go out and—." And then when they come back and they say, "Sorry," now you not just spent money on this man to get nothing done, you still owe your original order plus all the arrearages.

Another father agreed and noted instances in which men had successfully contested a default determination of paternity:

> Eventually they won, but you try to get the money back from the system. You still got another big old fight on your hands. And then you gotta get a lawyer to go fight the system, and by the time you get anything back, the lawyer wants: if we don't go to court they want 33% of whatever they can get back. Now, if we go to court you can pay as high as 50 to 60 percent to the lawyers just to get your own money back from the system.

Lack of Concern for Noncustodial Parents and Their Children

WHILE these kinds of situations are generally represented as "mistakes," "computer glitches," unfortunate situations, or examples of the difficulty in maintaining records across jurisdictions, participants indicated that they felt they are in fact emblematic of broader and more disturbing patterns within the system of child support enforcement. For, while several of the participants suggested that they thought the child support system is supposed to want to "help these people," others suggested that the child support system is not set up to assist noncustodial parents and has little concern for the actual care and support of children. Not only did virtually all of the participants argue that the child support system is biased against low-income noncustodial parents, they also brought forward examples of situations in which the system of child support enforcement did not appear to be acting in the interest of any of the individuals concerned.

So, for example, one participant discussed the case of a man who contested a paternity determination, but in whose case the ruling was not overturned:

> I had this experience: There was a gentleman in a court who said to the judge, "Look, I'm not this child's father. I didn't get any papers about this. I don't know anything about it." And the judge said to him—and it's sort of right and sort of wrong—said, "Look, the records show the sheriff served you with these papers, you know, six years ago, and—You haven't done anything, but you're now— So, you are the child's father." And that man said "thank you"—because he wasn't going to be found in contempt—and he walked out. And you could tell that he was so angry about what had happened to him. And what had happened there? He's gonna run. He may not be this child's father, this child is never gonna have a father, you know, and why they wouldn't start over? Why they wouldn't say "Let's do a blood test today, a DNA test, and find out if you are the child's father. Because if that gentleman is the child's father he may want to be part of the child's life. And if he isn't the child's father, he shouldn't be, just by this luck of—. That child is the one who's really being hurt by what went on . . . . Because that child is now never gonna have an active, loving father. Because that man doesn't think he's the child's father.

'The system is working with the system, to work for the system.'

Other participants suggested that the limited pass-through of $50 in child support to children who had received public assistance indicated a lack of concern for the children as well as the custodial and noncustodial parents. One father expressed his frustration of paying $700 a month but learning from his children's mother that they received only $50, and one of the caseworkers noted that fathers who had participated in focus groups he had conducted could not understand why only $50 of the money they pay to support their children in fact reaches their children. Another father expressed his frustration with the assessment of fines in the amount of 3% per month for the late payment of garnished wages when the reason for the late payments is the incompatibility of the timing of the employer's payroll structure and the schedule of the child support enforcement office. In none of these instances, participants suggested, was it clear how the system of child support enforcement was assisting either them or their children or making it possible for them to take on appropriate roles as parents who provide either financial or emotional and social support to their children.

Cynicism About Child Support Enforcement

ALL of these experiences and the personal hardships they caused have led participants to question the formal system of child support enforcement. Although they did not question its overall legitimacy, many participants did express disbelief and cynicism about child support enforcement's purported goal of assisting poor noncustodial parents in supporting their children. As one father put it:

> That's the way it felt when I was paying it: It was a penalty. So I made it up in my mind, "I tell you what I'm gonna do. I'm gonna pay this thing and get out." And, like I told you, I had my goal was to pay it off and pull out of the system and talk to the mother. And I would rather give it to her rather than be in the system. You know, cause I figured if I was faithful paying them for so many years and paying it off, I can pay her directly and give her the money. You know, that's how I looked at it. Because I knew she wasn't getting no money. My children are not benefiting from that. I'll give it to her myself.

Another father stated:

> The whole idea of child support, the system thinks of cash: money, money, money, money. Where in fact child support is being involved with the child. I paid child support for — oh god, I called it my rental fee to have her . . . , I felt like an uncle not a father.

Yet another father present took the critique one step further when he suggested that, since little of the money he has paid through the District Attorney's office has gone to support his children, and since his unofficial support (even when documented) has not been recognized as child support, and since the interest added to arrearages is not paid to the children in whose support payments were to be made, the conclusion he has reached in that "somebody's filling their pockets." Or, as another father put it, "the system is working with the system, to work for the system."

To the extent that child support has adopted a language that encourages fathers' involvement in the lives of their children and has adopted practices that are "father friendly," participants expressed a sense that little of this was genuine or evident in practice. Instead, as one father put it, to them it appeared that the system "[doesn't] even look at people as people, [but] as money." As another father expressed it:

> . . . the DA trying to push the parenting, that's just another one of them smoke screen pacifiers that they got from some other program to say that, you know, we need to get the fathers involved as being an emotional thing, not just a money thing. And so they're finding all this pressure, so they're, like, "Well, look, you guys need to talk to them about this." But you know they're just stroking themselves. You know, that's my personal opinion. It's like someone said, "We're just a statistic. We are just a dollar sign. That's all they wanna do, is show that they are getting back this money to make themselves look better. It's never been anything but that."

'We're just a statistic. We are just a dollar sign. That's all they wanna do, is show that they are getting back this money to make themselves look better. It's never been anything but that.'

This sense was reinforced by their experiences not only with administrators and child support officials, but also with lawyers who were ostensibly supposed to be supporting them and representing their interests. So, for example, one father related his experience with a lawyer as follows:

> I went into court one time and — the mother wanted some more money. Okay, I get a lawyer. The lawyer lost the case, turned around, gave the woman his card and said, "If you ever need me." That's what he did: pushed me through the system.

Another father indicated that he had been given erroneous information by his lawyer and was being pressured to give up his parental rights, a

move he was considering, given his lack of understanding of the system and his worries about having the capacity to continue to handle his situation in the future.

Given this sense that child support enforcement is not truly engaged in supporting low-income noncustodial parents or even necessarily in supporting their children in many instances, many of the participants expressed resentment about the system and the messages promulgated about fathers even as it had great repercussions on their lives. Many of the fathers present were resentful of the notion that they would be constructed as "deadbeat dads" and pointed to gender and other biases frequently exhibited by many child support officials they came into contact with. Though it was not explicitly stated, it was implied that low-income fathers, because of their difficulties in paying child support regularly and because of the often greater disruptions in their lives, are more likely to be constructed as "deadbeat dads" than wealthier fathers, for whom the regular payment of child support is not as difficult. This sense became clear in the comments of one father who said:

> People have this attitude, this opinion because of media making everybody look like a deadbeat father. I'm taking care of my kids better than a lot of people that have media jobs . . . . Even the legislators as well as people in this room should just get away from that word "deadbeat." Cause there's people that are parents and they're deadbeats and living in the home. I mean, I think that's really, that's a form of ignorance because people — just the word deadbeat, that implies —that's like, if you're young, and you're a minority and your pants are sagging that means you're involved in gangs. Half the time my pants are falling off my hips, but I almost have a college degree. So, you gonna classify me because of that . . . . It's because of the use of the word deadbeat, regardless if the person is a deadbeat. Cause there are doctors and lawyers out there who are deadbeats. So, we need to get away from that word first of all. That really upsets me, because I've never been a deadbeat dad, and I'm a recovering addict and I still make sure my kids have got money.

Moreover, several participants expressed the idea that the entire construction of fatherhood through child support relied on notions of gender and parenting with which they did not agree.

They expressed further resentment of the fact that the same system that they feel inappropriately constructs them as irresponsible fathers simultaneously has a powerful and often harmful effect on their lives in ways that can undermine their ability to parent their children. So, for example, many of the fathers and caseworkers present discussed the fact that actions undertaken by local offices of child support enforcement often led to future barriers to involvement for noncustodial parents, prime among which were employment barriers. One father indicated that he was forced to quit high school early in order to fulfill his child support obligation and was now (and would continue to be) disadvantaged in the labor market because he had an equivalency degree rather than a high school diploma. He viewed the process as highly contradictory in that it was the very system that was enforcing his financial obli-

'I knew she [the mother] wasn't getting no money. My children are not benefitting from that. I'll give it to her myself.'

gation of support that was making it difficult for him to be able to fulfill this obligation.

Several other fathers noted that many of the methods of enforcement employed by the child support system can create barriers to future support. So, for example, a number of fathers mentioned that their employers were frustrated with having to handle wage garnishment for them and complained of the time and effort it took. These fathers felt that, while their jobs were currently secure, in another job or with another employer the effort required of their employer might lead them to lose their job. Caseworkers and fathers also indicated that noncustodial parents often faced further financial barriers as a result of child support garnishment, since their paychecks simply indicated "garnishment" and did not specify the reason. As one father put it:

> On my check stubs I got three different payments that all say garnishment, garnishment, garnishment . . . . When you're applying for credit and they ask for check stubs, they see this, it's like "uh uh, we can't do this." I was lucky enough to talk to—because we're a small company—I had them change it from "garnishment" to "child support" to let people know that okay, on the credit end of it, if I'm trying to apply for credit, when they look at all of this they see that on my application, "Well, oh, he is responsible in payment." Not like, "Well, we gotta just take it from him."

Fathers and caseworkers also indicated that many noncustodial parents faced significant employment barriers if their drivers' licenses had been revoked by child support enforcement. As one caseworker pointed out, when a license is suspended, the information remains on one's record for ten years without indicating the reason for the suspension. Consequently, many noncustodial parents who have had their drivers' licenses revoked because of child support arrearages are unable to get insurance or secure future employment even after they have paid off all of the arrearages.

All of these issues were raised as an indication of the fact that the child support system does not truly appear to be structured to assist low-income parents and children, but rather to collect money by whatever means it has available to it. Participants were convinced of the fact that this remains the primary agenda of the office of child support enforcement and that fathers continue to be regarded primarily in terms of their financial obligations, even as much of the current rhetoric addresses other aspects of "father involvement." The apparent contradiction between these two definitions of fatherhood led many participants to question the sincerity of the "father involvement" campaign. In this context, many fathers present at the colloquium expressed resentment of the fact that fathers who fail to meet their financial obligations are constructed as irresponsible fathers, even as the very actions undertaken by the system of child support enforcement in an effort to collect money make it harder for fathers to fulfill these obligations (along with others they might deem more significant to their relationship with their children).

Child Support Enforcement's Impact on Social Relations

MORE importantly than even the barriers to future employment, many of the participants argued that the system of child support enforcement had a critical and generally negative effect on their personal lives and their relationships with current and former family members. Many of the fathers made it clear that their relationship with the mothers of their children were largely undermined because of having to deal with the formal system of child support enforcement. Even when they recognized that many of the women had no choice but to engage the child support system because they had received public assistance (in the form of AFDC, TANF, or Medicaid), they expressed resentment that they had been put in the position they were in. As one father put it:

> I hate my wife for doing what she's done to me because I never did anything to her . . . . You know, to put me through this stress on a daily basis regardless if I'm current on my payment or not. It's not fair. Because no one's putting her through this stress. She has to stress over nothing. Hell, she sits back with her feet up. You know, so yeah, I do have resentment toward her . . . . I do know that she's a good mother, and I can thank her for that, and I do that all the time. I let her know I'm really thankful that she's raising my boys right. And I really do appreciate the welfare system because they have stepped in and done some things that actually I wasn't able to do. But she didn't have to go there. She could've worked on her own.

Several of the fathers expressed their sense that women, as custodial parents, were able to receive many services that they, as noncustodial fathers, were unable to receive but were nonetheless in need of. So, for example, one father spoke of the fact that his child's mother was provided with housing, child care, and schooling, while he was provided with none of the above and was not in the position to finance them himself:

> The welfare system . . . seems to favor the mother more than the father. The woman can go in, get food stamps, welfare, and it's like she's almost society. When the baby's born, that's her kid, she carried it, it's hers. If me and her are together or we're split up, it's like "I want to take the baby with me, to stay with me." "No, I'm the mother, I'm taking it." And that's the way it is. The mother goes, they got women's shelters where they can go live with the baby. They don't have that for men. I can't get a shelter and go live rent-free so I can go to school with my kid with me. They don't have that for men. But women, they got women's shelters, where they can live rent-free and still get welfare, and I gotta pay for all that. But I'm his father, you know. Can I get a shelter? Can I go live in a YMCA or whatever, so I can go to school and I'll have the baby and you pay for it? It's always favored toward the women. So then the fathers are like, "Man, F- it. You know, ain't no one backing me up. Forget it" . . . . It's gotta be evened out.

While many of the fathers present indicated that they felt the system treated fathers and mothers differently and that low-income noncusto-

dial fathers in particular were often treated harshly, some of the caseworkers also spoke of the difficulties faced by the custodial parents they met through their programs. As one caseworker put it:

> We work with young fathers, you know, these are teen fathers who know very little about the system. Once you get to know who the baby's mom is, you realize she doesn't know . . . that much about the system either, and she's getting . . . turned away just as often as he is.

'It's the pain that's caused and the damage it's doing to the relationships between father and mother and father and children.'

In general, participants suggested that the formal system of child support enforcement as currently constructed does not help low-income noncustodial parents support their children and become involved in their children's lives. To the contrary, in the experience of fathers and caseworkers present at the colloquium, the formal system of child support enforcement often had the opposite effect of disrupting relationships and fostering antagonism and resentment. As one caseworker argued:

> I work with fathers from the ages of 12 to 65, you know, and many, the great majority of them . . . come to our agency with issues of . . . with so many things and having to deal with this child support system . . . . I know we'll be talking a lot about the legal aspects and the ramifications and how it's torn families apart and, just as you mentioned, how they come out of there not knowing what goes on. But then after that, when they leave, what it does to them, you know, emotionally and to their relationships, that's what I have to work with, you know, mending these families where now children are involved and which leads to other issues: substance abuse, child abuse, and suicide, murder . . . all of these things that, not as a direct result, but it's all part of this whole picture. We need to look at that too because . . . we're not just talking about the legal ramifications or having their checks garnished or their licenses removed and revoked. It's the pain that's caused and the damage it's doing to the relationships between father and mother and father and children, and that's something that . . . for many is never really fully remedied or recovered.

The potential for these "indirect effects" was made apparent by one of the fathers at the colloquium who said that the financial and emotional stress of dealing with child support issues and having his relationship with his child mediated through the child support system since his divorce six years earlier had not only had the effect of ending his recent engagement and plans for a second marriage, but also led him to the point that he felt the most appropriate option for him was to relinquish his parental rights. Far from securing and reinforcing his relationship with his child, the system of child support enforcement was instead a significant factor in undermining that relationship, perhaps to the point of legally severing it altogether.

Negotiating the Child Support System

REPORT ON THE WASHINGTON, D.C., COLLOQUIUM APRIL 9, 1999

A Discussion of Policy and Practice

THE Washington meeting was held on April 9, 1999 and included the following participants: three researchers whose work has centered in part on the child support system and its implications for low-income, never-married noncustodial fathers; a lawyer whose work has centered on poverty law related to government assistance and on legal analysis and advocacy for programs serving low-income, never-married noncustodial fathers; two representatives from a foundation that provides funds to programs working with low-income noncustodial fathers; a Housing Authority staff analyst and curriculum developer; and fifteen fathers and caseworkers from community based programs in Massachusetts, Maryland, and Virginia that serve low-income noncustodial fathers.

The Issues

DURING the third colloquium many of the same issues were raised that were raised during the first two colloquia, a fact that bespeaks the consistency of the interactions low-income, never-married noncustodial fathers have with the system of child support enforcement across different states. In addition, at this colloquium participants made apparent the sense of disempowerment, and often fear, that permeated their interactions with the child support system, a sense that was expressed by participants at the earlier meetings as well. While not a specific policy issue as such, this report will focus on this issue because of the extent to which it colors virtually all aspects of their dealings with the child support system and thus ultimately can affect their relationships with their current and former family members and partners. Of particular concern is the fact that the fathers are expected to safeguard their own situations (e.g., their due process rights) as they deal with the child support system, but, as many participants pointed out, by the time they are standing in a hearing room or court room and explaining their circumstances to an administrative agent or judge, they are so intimidated and overwhelmed that they are unable to successfully voice their concerns or represent their situations.

Context

As at the first two colloquia, the noncustodial fathers who participated in the meeting in Washington were low-income fathers who have few sources of support in their lives. For many of them the programs they are involved with are a rare place where some of their concerns (about employment, child support, etc.) are acknowledged, and attempts are made to address them. However, while the programs are able to offer some forms of support, many of the fathers and caseworkers present indicated that the fathers continue to operate without much of a support system, and they expressed little expectation that this will change soon for any of them. This general lack of a social support system plays an important role in their dealings with the system of child support and their efforts to be involved with their children, leaving them very vulnerable to situations over which they have little control (e.g., the labor market, racial discrimination, etc.).

For these fathers, the child support system has taken on tremendous significance as an institution that has a great deal of power over their lives but is not easily comprehended and is often overwhelming. As at the first two colloquia, the fathers who participated in the Washington meeting were often confused by the child support system. In spite of receiving support from community-based programs that work collaboratively with local offices of child support enforcement in assisting noncustodial parents with these issues, and in spite of having extensive experience with the system of child support, many of the fathers at the meeting remained unsure of some central issues, such as: when and how they had established legal paternity; when and how their support orders were formally established; whether they had been charged with birth costs; and at what point they accumulated arrears on their child support payments.

Not only was the child support system presented as confusing; in addition, participants emphasized their frustration at having no control over how to engage the system. For example, one father discussed his efforts to equalize the child support payments he made to his two children, who live in different counties with different mothers. He paid child support for both children to a central office, from where the funds were distributed to each of the counties. Although it was important to him that his children receive equal shares of his payments, he found that the payments distributed on behalf of each of his children were unequal.

When he inquired about how he could rectify the problem, he was initially told that it would be an easy task, but then found that it was impossible and met with resistance from one of the counties, which refused to lower the amount collected on behalf of one child so that the amount distributed to the other county could be augmented. He was informed that the only way he could change the situation was to pay an additional amount to the county that received less, an act that he could

not afford. As a result, he noted that his children's mothers are upset because they feel that their children are cared for differently by their father. He himself expressed frustration over a number of issues: he felt frustrated that he had no control over the situation; he was frustrated that he had been led to believe that he would have some power to change the situation; and he was frustrated that his children continue to receive unequal amounts of child support in spite of his efforts to equalize the payments. The experience underscored his sense that, in his dealings with the child support system, he remains powerless to handle matters in a way he considers appropriate and instead is at the mercy of a system that is unresponsive to his, and his children's and their mothers' needs and concerns.

'Every week that I was not working for months and months and months, and they just said, 'It's okay' you know, but we're just gonna keep charging it, keep, keep building it. It's just gonna keep building.'

Lack of Assistance

WHILE many participants represented the child support system as confusing, overwhelming, and beyond their control, participants also expressed frustration over the fact that the child support system made very little effort to assist them. Several participants indicated that they felt discriminated against by child support officers, whether they entered the system as noncustodial parents or sought services as custodial parents. As one participant described his situation:

> My biggest thing is not the higher ups in the child support system, 'cause the guys at the grassroots never get to see them. It's the angry people at the customer service window that we have to deal with. Okay . . . I go down to child support to ask why I'm not receiving child support. The lady tells me, "Take a number, go sit down." I take my number and go sit down. They call my number, I go up to the window, tell her what I'm . . . there for and she tells me, "Oh, you gotta talk to this lady over here." She passes her the paperwork. She tells me to go sit back down. After thirty minutes of sitting there, waiting, seeing other people go up to this window and get waited on and get waited on and get waited on, I go back up there. She goes, "What're you here for?" I said, "I'm trying to get child support for my son. I want the child support, not the mother." "You the father?" "Yes, I'm the father." "Oh, go sit down. We'll be with you in a minute." I go sit back down there. Keep in mind I'm on my lunch break from work now. Okay. My supervisor has been kind enough to give me grace time to go down here and get this taken care of because I got a court order to go to court just to say that did she know that I'm supposed to get child support. I sit there another thirty minutes. The lady tells me, "Oh, I can't help you today. You have to come back next week." Immediately I'm outraged, angry and ready to tell this lady where she can go with their organization. Cooler heads prevailed 'cause I realized you know 'hey, you can't do that if you want to get anything done.' I asked her "Well, when should I be here?" "Oh, well, go over to that window and they'll give you an appointment." I go over to that window, the lady goes, "I'll give you an appointment in about twenty minutes. I'm going on break right now." . . . The lower echelon people need to have their attitudes worked on really bad.

'I didn't know any information about, you know, to call a counselor. I didn't know about that. But that six months did a lot of damage.'

When it was suggested by a colloquium participant that on such occasions he should ask to discuss his situation with a supervisor or document such situations for future reference, he noted that he had tried to do so:

> Documentation is good, okay. But when I finally did get back to the appointment, you know what I was told? "You wasn't here a whole hour." I said, "Well, my name is on the sign-in sheet." "Oh, we can't find the sign-in sheet from when you were here." It's okay to say document it and do the right thing, but when the frustration level kicks in, emotions start running high, adrenaline starts going, you get angry and you know you gotta get back to work and you're not getting no help whatsoever, like you said—we stop opening the mail.

This example of poor service was corroborated by other participants who had also experienced what they felt was unfriendliness to fathers at child support offices. While poor service is clearly not restricted to custodial or noncustodial fathers, and women as well routinely receive poor service when they are dealing with government programs directed at low-income individuals and families, the aspect that was particularly striking to participants was the lack of redress for low-income fathers because of the attitudes workers have about them and the potentially serious consequences if they respond in ways that are considered inappropriate. As several participants pointed out, when low-income African-American fathers demand to see the supervisor when they are poorly treated, the response can often be negative:

> . . . saying "I want to see your supervisor" works really well for [white women] and maybe [African American women], but how do you know who's above—If you go to that same woman who told you to sit down, she doesn't even want to have a conversation with you . . . is she gonna tell you the name of that supervisor? Is she gonna tell you which office in that building? And if he starts walking back and looking for her office, he's out . . . . The security comes in . . . . [A]s soon as you ask for the supervisor, you get immediate attitude: "You want my supervisor? For what?" Then she pushes the button and security's coming over there, "What're you aggravating her for?"

Experiences such as these serve to underscore, on a routine basis, the lack of power of low-income fathers and, by contrast, the great amount of power the child support system holds over them, with what many fathers see as potentially very frightening consequences. As one case manager commented:

> I feel that the child support system is not father friendly. And what I mean by that is this: When you go to the child support enforcement office, to try to, like you were saying, try to establish paternity or set up a payment system, or find out how much you have in arrears on a case, or get a court date, just what you say happens: "Why do you want to know this? Why is it so important? Why can't you wait till we get to you?" And then if you're the father, and you're supposed to be paying child support, it takes eight, ten months, almost a year, to get a court date, and then you've got arrearages built up so high that you're looking at it, like, "I'm going underground. I ain't dealing with this. I'm not working," you know. And that's why a lot of young brothers end up not getting into the system. The system is not father friendly.

As at the other colloquia, participants mentioned specific areas in which they felt the child support system was not supportive, even when faced with direct evidence of their efforts to support their children. Some of these issues spoke to the general inflexibility of the system as it deals with low-income individuals and families. In this regard, both fathers and case managers at the colloquium noted that the requirements set by offices of child support enforcement often prevent low-income fathers from undertaking activities that would make them better able to support their children over time. As one case manager put it:

> I just had a father walk in. His child is gonna be born in July. He's also 21 years old and never worked in his life. And, it's like, well the thing of it is, I said, "Well, now you need to establish paternity" and then I said "but that means, you know, DOR is going to ask for you to start paying money." And it was, like, I said, wait a minute I'm scaring the man away before he even gets started here. He hasn't even had the child. So, but one of the problems is: Okay, if I bring this kid in, okay . . . we're trying to establish a [job service program] under [our program]. We wanna have connections with different job service agencies. We wanna be a one-stop service where we can take care of the mental health issues, physical issues, and spiritual issues of the father, number one. Okay, DOR says, "You better have a job." Now, if I got this guy signed up for a seven-month program to become a computer lit person or computer information person, they're not gonna allow this man, I've got [a program] saying they're gonna pay for this man's tuition of $5000 in tuition, but they say, "No. Work first." And, it's like, well, wait a minute. And I had another client who was studying for EMS. He was gonna be making $22 an hour. DOR says, "Look, you get a job or we're gonna put you in jail." Where is he working now? He's working in two kitchens. What kind of —, does that make sense? So, here's a man who wants to be responsible, trying to get a trade, and DOR says we're gonna incarcerate you if you don't go out there and get a job right now.

'Here's a man who wants to be responsible, trying to get a trade, and DOR says we're gonna incarcerate you if you don't go out there and get a job right now.'

Other participants mentioned the difficulties low-income fathers face when they try to get their child support orders modified downward after they have lost their jobs or received a lower wage. Many of the participants indicated that they had gone out of their way to remain in touch with their local child support enforcement office and explain their situation to them (to avoid having arrearages added to their child support debt), but that this had had no effect on their situations. As one father noted, while occasionally he had been told he might wish to petition to have his order lowered, this was not always suggested to him and, even when he had tried to do so, it was not always granted. As he put it:

> I'm working on getting it reduced again so I can take care of some of these arrears. So I'm working with the program now and see if I can get it reduced, but, you know, it's tough because every time that I wasn't working, I would talk to the representatives at the DOR and it's all about getting a job or, if you're just out of work, but they don't explain anything to you: how you can . . . avoid not getting . . . the payments, like, not added onto you. Every week that I was not working for months and months and months, and they just said, "It's okay" you know, "but we're just gonna keep charging it, keep, keep building it. It's just gonna keep building."

'You got brothers going underground. The system needs to be more father friendly and work with them in a better way.'

Another father indicated that he had been waiting for two years to receive a response to his request for a downward modification. These examples were not unusual; as one participant pointed out, according to his research on the granting of downward modifications, child support offices in most states tend to grant downward modifications only when the noncustodial parent has had at least a 30% drop in income over a six-month period or more, indicating a long-term inability to meet the level set in the current order. As one participant responded:

> I'm working with a guy right now who has a very good job, but, because he's about to lose his drivers' license, he will no longer have this job. Okay, so for six months he's gonna have to somehow pay the full court order. . . . He's looking at it this way: "If you take my driver's license, fine. That means in a few months you're gonna drop my child support payments" and this guy's looking at it like, "I'm not going back to work." He'd rather hang out on the corners with his buddies and—I'm going to be very blunt—smoke blunts, sell drugs, make enough money in a day to pay his child support for three months, throw a few dollars in the mother's pocket to keep her mouth shut. You got brothers going underground. The system needs to be more father friendly and work with them in a better way than going up to them and telling them "Hey, if you don't do this, you're going to lose that." Okay, this guy drives a truck. But they're going to snatch his driver's license—he can't work. He's going to tractor-trailer driving school and they're telling him straight up and down "You're going to lose your license." There's no: "You can drive to work and drive at work." Straight up, they're just taking his license. He's decided "I'm just going to go underground."

While these issues all spoke to the child support system's general lack of attention to, and concern for, the situations of low-income fathers, other issues mentioned by participants were more specific in pointing to practices that appeared unduly severe. For example, participants discussed the inability and unwillingness of local child support offices to accept informal payments of support by noncustodial fathers, even if these payments can be documented through receipts, check copies or money orders. One participant suggested that this fact alone was enough for him to have avoided establishing paternity for his five-year-old child, whom he had been supporting informally over the past few years, because he worried that he might be charged with making retroactive payments for the period during which paternity had not yet been established (but during which time he had been supporting his child). Equally as inappropriate, according to participants, is the unwillingness of child support offices to correct the misidentification of a man as a child's father after a period of time, and the unwillingness to credit noncustodial fathers for payments they have made after they have applied for a modification but before the modification goes into effect. As one case manager remarked, he was specifically informed by the director of his state's child support enforcement office that, in their state they "rarely go back and give anybody their money back" if a noncustodial parent has paid the higher level while waiting for a court date after submitting a request to modify an order downward: "Even though they

get a modification, they'll modify from that day forward. But they will not go back and credit those eight months it took to get to court."

As several of these examples suggest, many of the participants felt that, not only is the child support system not helpful to them, but frequently it is inappropriately punitive toward them and undertakes actions that place them and their families at great risk.

Punitive Actions by Child Support System and Lack of Representation

PARTICIPANTS at the colloquium understood the child support system to be an enforcement system that relies on specific measures to collect child support from noncustodial parents who are trying to avoid supporting their children. However, in their own experiences with the child support system, many of the fathers and case managers have found these enforcement mechanisms inappropriate for low-income fathers who are unable to pay. As at the other colloquia, participants expressed the sense that it is inappropriate to suspend the licenses of low-income noncustodial parents whose livelihoods often depend on them, particularly in a context when the suspension is the result of a lack of ability to pay child support because of a lack of employment. For example, one case manager noted that a father he works with is likely to lose his job because the local office of child support enforcement will suspend his license for his failure to pay child support. Another participant noted that having fishing and hunting licenses suspended does not necessarily only affect people's recreational activities, but rather can reduce their ability to provide food for their family. As he said:

> They expect you to pay child support, in some situations you gotta have a car to go back and forth to work. Then they come up with this . . . "I'm gonna take your license." That's your only form of getting to work and making that money . . . . I know when I was in North Carolina, if you were a hunter, you might be bringing food on the table, they take your hunting license; fishing license they take away. What you supposed to do without these things?

Participants noted these examples as an indication of the inappropriateness of some of the enforcement methods of the child support system when they are employed against low-income noncustodial parents. In these instances it is not possible for the fathers to avoid or reverse the suspension by paying a sum of money, and the suspension can have lasting implications for people who already face difficulties getting jobs. The method of enforcement thus becomes yet another barrier that prevents them from fulfilling the very obligation the mechanism is created to enforce.

Similarly, many participants noted the difficulties associated with incarceration. To begin with, many of the fathers acknowledged facing difficulties because of prior arrests, which made it more difficult for them to re-enter the workforce and become engaged with their children. In addition to facing these barriers, however, many of the participants indicated that it was the fact of having been incarcerated that either created or exacerbated their problems in dealing with the child support system. As one father stated:

'The first thing the security officer asked him was did he have a pistol in his bag.'

> I feel that it's, at least in my case, that it's been very unfair, where with the receipts and stuff to that nature, I've been very supportive of my child besides being incarcerated during that time and going through rehabilitation for drugs and alcohol; times when I couldn't be there `cause I was taking care of myself finally. But in that time, the arrearages built up, built way up. My son's seven, almost eight, right now, and, in his seven years I've had three years of either rehabilitation and incarceration, and my arrearages just built way up. Besides that three years of that time, I've always been there for my son.

Another father gave a similar account of how jail had affected his dealings with the child support system, helping create arrearages in the amount of $11,000, which, with interest, came to close to $14,000. He noted:

> I didn't know any information when I did six months in '94, and then, ever since I went on down to the, got messed up a little bit, and wasn't working and whatever. And I didn't know any information about, you know, to call a counselor. I didn't know about that. But that six months did a lot of damage. That's where it started building up. I was paying before that, when I was driving a school bus, and then I had no problems paying. I was paying $163 a week, `cause I was making a lot of money, so — . But then I got it reduced after I went to jail and after I got out of jail, then I had started making less money, but they were still charging me $163 a week. It went up, you know. And I was trying to, I was confused. I didn't know any answers. I didn't know anything.

One of the case managers also mentioned the situation of a father he works with who, as a result of being incarcerated for ten years and not knowing that he needed to address his child support issues, currently owes $20,000 in arrearages as a result. This case manager made the point that he now informs noncustodial parents in his program that if they are incarcerated they need to talk to counselors about this issue.

However, even when noncustodial parents were aware of the need to address their child support obligations while in jail, this did not necessarily help them obtain a reduction or suspension of their order during that time. Although some participants indicated that either they or participants in their programs had had their orders suspended until a court date was set and then had a review, one of the case managers who said he had brought up the issue with the director of child support enforcement in his state was told "well, you know, just like they have jailhouse lawyers, they should know about filing a motion for a modification."

The problems associated with incarceration were not limited to hav-

ing arrearages build up. In addition to owing excessively high amounts of money and facing significant difficulties finding housing and employment, several of the fathers also expressed a continual fear of being incarcerated again should they prove unable to pay their arrearages. This fear was enough to drive one of the fathers into the underground economy so he could stay beyond the reach of the child support office. Even though he knew this was counterproductive, he felt it was the only way to stay out of jail:

> Me and my son's mother have a good, friendly relationship today. She knows that I've been very supportive. I've always been there on the phone, or whatever. But I feel that I've been labeled now as a deadbeat dad, so to speak, and that I've never been in the picture. I did go underground for many years also with that feeling of the arrearages that did build up and I did not want to go back to jail. And I did not know how to go about facing it. I mean, I went and filled out job applications—I even got hired in jobs—and, say they were paying $12 an hour on the books, I would offer the guy "I'll take $10 under the books." I was negotiating my jobs as far as pay, due to child support, in the fear of them coming, locking me up, where I have been very supportive, the whole time, during my child's life, besides incarceration and rehabilitation for alcohol and drugs. I feel that I've never, I've been labeled a deadbeat dad and, you know, I wasn't there in the picture, and the whole time I was. Me and my son today, you know, have a very good relationship. He thinks very highly of me; he's very proud of what I'm doing. But I have this DOR now with, you know, I've never been there. You know, it's like ready to throw me in jail. I have this fear they're ready to throw me in jail, when I have been a very supportive father and have been in the picture the whole time, besides my own personal problems.

'I have this fear they're ready to throw me in jail, when I have been a very supportive father.'

As another father pointed out, this fear of child support is widespread among low-income fathers:

> . . . [C]hild support seem like a scary place. I know a whole lot of brothers are agreed. We scared to go down there. I mean, you get backed up a month, we scared. So we not going to go there when they send us a letter, we not going to go down there because we don't know what's going to happen when we get in there. Because I mean, I've been in child support, I've seen some strange things happen. I mean, I've seen brothers go in there, they backed up and then they get arrested. I'm saying, so, we are afraid. I mean, a whole lot of brothers afraid to go down there. So that's why the money gets backed up, backed up, and backed up more. Because we don't know what's the, what the reaction's going to be, what's going to turn out when we go down there.

As the discussion of incarceration made very apparent, one of the primary problems low-income noncustodial fathers face is their lack of representation when they are dealing with the child support system. Two of the fathers explained that their current difficulties with child support stemmed entirely from having been incarcerated and owing arrearages (and interest on arrearages) for the time they were in jail. Both of the fathers said that they had close relationships with their children and that they had been continuously involved in their lives except when they were incarcerated. However, since their release, both of them

continue to face difficulties related to the child support obligations that had accrued, difficulties that continue to place them in danger of being incarcerated again.

In part, the fact that these fathers face these issues associated with incarceration is reflective of the fact that they had received no assistance in dealing with these matters. As one father noted, he had been completely ignorant of the need to request a modification, a lack of knowledge that set in motion the accrual of his arrearage. This lack of assistance or representation was consistent throughout most of their dealings with the child support system and is encouraged by the administrative and court procedures in place. As several of the case managers noted, they are not permitted to advocate for their clients in court when they go to the courthouse with them, a process that made it very difficult for the fathers to represent their situations effectively. While case managers indicated that they could work with child support enforcement officials through their programs or—in some instances—just outside the courtroom, most of the case managers said that they were unable to do anything for their clients when they were in the courtroom. As one case manager said:

> As a practitioner I've been put in that position where I've gone to court with a client. Okay. And, like you said, what was said to him totally blew his mind. He forgot everything he was going to say, wanted to say, and needed to say. When I stepped up to speak to him to help him get out what he wanted to say, I was told by the people in the court, "It's not your position, you're not his attorney, you need to go sit back down. If he can't speak for himself, he has to deal with it on his own."

Another case manager made evident the potential repercussions of having low-income noncustodial fathers advocate for themselves without assistance, even in a situation that is very straightforward:

> I've taken a few guys down to the courtroom. And, in Boston, it's like a deli. You go to the courtroom and they're going, "Mr. K." . . . And these guys are just coming to speak to some lady or some gentleman—they don't know who they're talking to—and like [a participant] said, he was—I came in a little late, and he was sitting there talking to my guy. And I had faxed him all the information about him. You know, he was on disability, he had four kids, and he had paternity established. But when we got to court she's like "Okay, you have no paternity established. What's your income?" He's just like—. And I walk in and I'm like, "Whoa, whoa, whoa, he has, he is on DSSI, he's on disability, and that's, he's collecting that and his SSI. He has no money. He has no income." And she was ready to, like, charge him up, you know. The mother's over there, and she's running back to him, and he's just like, just looking at him, and like, they don't even get to communicate. The two parents don't get to talk. It's like they keep them separate and it's like you're going at war. You don't know what she's saying, and she doesn't know what he's saying and so it's just an uncomfortable feeling, and I just don't think it makes people feel personal because you're just yelling names out. And they're going from that person to that person, running in the office, and me and him were just like—. And if I wasn't there to talk for him

and just to tell the lady what his situation was, she would've gave him a court order with some payment and he wouldn't have had no money.

While the presence of a case manager prevented the inappropriate (and illegal) treatment of the noncustodial father in this instance, even when low-income noncustodial fathers receive such assistance outside of the courtroom, the experience can be very problematic:

> [Our program] had some support . . . [and had] a program . . . . The objective of this program was, for those fathers who were working, who—through downsizing or layoffs or whatever the case may be—were laid off, had assistance . . . to talk about these issues and make sure that they would stay in touch with the court once a week or twice a month, or whatever the requirements were. And one of the practitioners of that, this man, said that he had went down to the court house to support one of the fathers who was active, going in to petition the courts for visitation rights. And unfortunately the brother didn't go in with a shirt and tie on. You know, he went in with a pair of jeans, they may have been hanging down around, with a bag in his hand. And the practitioner shared with those of us who were at the meeting that the first thing the security officer asked him was did he have a pistol in his bag. I mean, just with that type of scenario, that type of situation that exists, I mean, what does that do for the psyche of the brother? He had been working for six months, we got him to come to the table, he's taking the initiative, going downtown to petition the court no matter how intimidating the process is. `Cause it's intimidating for me, too, as a practitioner. If I had one of these men, who asked me or one of my staff to assist him going downtown to fill out the court papers — because it's two separate processes: the objective of child support is to collect money; they don't have anything to do with—they make that plain—that they don't have anything to do with access and visitation. You need to go to this particular office within the court system. And you working with a brother who's had no trust in the system for 10 or 15 years and then you put him in a situation to tell him or even direct him to go somewhere to file a petition, when he doesn't have any idea what the process is, and to get on an elevator, for a security officer to say something like that, what does that do for the psyche and just the self-esteem?

'I thought in the beginning that the system was about bringing the family together. And it seemed like it pushed us apart.'

The inability of low-income noncustodial fathers to have advocates when the stakes are so high was presented as very problematic. As one case manager put it:

> [It's] not fair. `Cause, like you said, we got brothers who: low-income, have substance abuse problems, are terrified of being in the court already `cause last time (nine times out of ten) they went to court, they left in handcuffs and shackles. You know, so you get in there, you got a judge, not necessarily barking at this person, but saying stuff to him that's intimidating and using words that they don't understand, they start shrinking. And by the time they finish with them, they're about this big, and they don't know what to say or what to do. And they're looking around for some help and, as their advocate, I can't do anything, my hands are tied. I'm told to "sit in the back of the courtroom, be quiet, and wait for my decision."

Contradictions and Mixed Messages

'They're trying to do the right thing and stay together and raise their children together, but the system is saying, because you want him there, you gonna lose everything.'

WHILE case managers emphasized the lack of representation and the manner in which it hurt low-income noncustodial fathers, several of the fathers also suggested that they found it inappropriate that the same system that created barriers for them and within which they felt unable to effectively have their concerns heard and respected, identified them as irresponsible fathers and "deadbeats"—even when, in spite of all of the obstacles they faced, they had managed to maintain a close relationship with their children and children's mothers over time. Participants identified the primary reason for this as the emphasis on child support when discussing noncustodial fathers' relationships with their children, an emphasis that is clearly heightened by having programs directed at fathers handled through offices of child support enforcement. As one father put it,

> I thought in the beginning that the system was about bringing the family together. And it seemed like it pushed us apart. You know, that we wasn't, there was no unity within the family. [W]hen I was going out to that hospital room and I was going out to that court, [paternity] was what I thought it was all about. But when I got into that court, it was all about money. See, I knew what it was about: I was there to claim mine and to say, "This is mine and I'm here to do my job." But when everything went around 'this is about money, and this is about that' it threw me off. So, when [one of the participants] said 'paternity,' I referred right to money.

This central contradiction affected many of the participants' situations—whether they avoided establishing paternity for children they supported informally for fear of facing retroactive support payments, or were forced into the underground economy, or found themselves unable to support their children directly because they were making formal child support payments that went to reimburse the state rather than support their children.

Perhaps the most glaring example of this contradiction that was raised during the colloquium was the effect of housing policies that in practice made it impossible for low-income noncustodial fathers to live with their children and their children's mothers because of the resulting lack of financial support for the mothers and children. One case manager presented the situation of one of the participants in his program:

> A young man and his significant other were living together. The caseworker came out and she wanted to know "You on Section 8? It's only supposed to be you and your child here. Whose clothes are these in the closet?" This, that, and the other. "Who's staying here with you? He's not supposed to be on your lease." Young man came home from work, the girl was like, "Look, you gotta move back to your mom's house because I'm gonna lose my Section 8 and all my—all of the aid that I am getting because you're here with me.". . . . You know, he's there, he's working, trying to provide for his children, but

they don't, it's like they don't want him there.

Another participant at the colloquium had faced a similar experience:

> I was in the same situation . . . . She was collecting the welfare and stuff and when I got out of jail, moved back in there, got a job, and, you know, we were getting back together, and social worker—from welfare I think it was from—found out I was there and, basically, she's gonna lose all her aid if I don't get out. And they, basically to me, they give her a security blanket so to speak, where it's, "You want these aids and all this stuff, you gotta get rid of [him]." And that's when [I] become a deadbeat dad, so to speak. They didn't have concerns on where I was to go or what I was to do or no support system as far as being a, getting a family back together or a father, you know, how to work with this. It was basically they told her "tell him to get out or you lose all your aid."

'A lot of guys were kind of skeptical because they thought it was a sting.'

Yet another case manager said:

> One of my clients, staying with his significant other: When he knows it's time for inspection to come around, he packs everything up, takes it around to his mother's house, hangs out there for the day and a half or whatever it takes for them to go through and do what they got to do. After they've done—and this is like an every 90-day cycle, okay. But this guy, you know, it's like, they're trying to do the right thing and stay together and raise their children together, but the system is saying, because you want him there, you gonna lose everything. This guy is only making like $5.50, $6.00 an hour. You can't pay medical insurance, gas, and electric, and $400 a month rent on $5.50 an hour. It doesn't work. And one point that needs to be brought up . . . . Affordable housing. You know, it's not fair for a woman to be able to get onto Section 8 real easy and then a brother go in and say, "Okay, look I need this help." "Okay, your number is 17,463 and we at number 2." And then you're sitting there 'What am I going to do? I get to go and make $5.50 an hour and struggle.'

The conclusion often reached was expressed by one of the fathers, who responded by saying: "She'd rather for you to leave, which would probably be easier on her and the children." One of the case managers commented on the implications of these contradictory policies by noting:

> That's where I think the system divides the family. Right there, they telling the father that he can't be there with the mother when he want to be there with the mother to take care of his kids. They breaking the family up right there. Telling him he's gotta get out. You know, he's gonna have to support himself now and try to find him a place. So how is he gonna take care of his kids and look out for her and do what he has to do there? That's breaking up the family right there.

While the contradictions within and between public policies themselves were presented as counterproductive for many low-income noncustodial fathers and their families, participants also noted that at times the various systems of enforcement (child support, law enforcement, etc.) appeared to act deliberately in ways that exacerbated these contradictions. This was made particularly clear by one of the case managers who discussed an effort his program had undertaken to hold a meeting

about fatherhood in one of the public housing spaces in the community:

> A year ago we had something in our agency where we had gotten some guys together and we was having an open forum in one of the public housing areas, where we were going to deal with being good fathers. And we had invited fathers out of the community and some of the kids to be in this thing. And we had tracked the whole community for about two or three weeks and we were expecting a large crowd, we had called the television station to come out. And about a day before the event, maybe a little shorter than a day, we got a letter from the head of the public housing area for the city, with a list of men that was, if they came to this area they were gonna be arrested. And, when we got together that day, the police, the paddy wagons were circling the building, like the Cowboys and the Indians. And police were sitting in front of the location and the crowd was standing around. Now what did this look like to these young boys who were there? And the fathers were, we were expecting fathers, and we were going to discuss the issues in our community towards fathers and sons or fathers and their kids. And it really blew me out the water. It did. It was like a three-page long list of names, side by side, of fathers. And half of them was the fathers working with us to get the other fathers.

As the caseworker further elaborated, although they held the event nonetheless, the experience underscored the sense of distrust and fear of many of the fathers:

> We went on with the function. It turned out fairly well. A lot of guys were kind of skeptical because they thought it was a sting, they were being set up, and when they got there they was going to be arrested. A lot of the guys shared with us they had warrants because of child support.

This example clearly identified many of the concerns that had been raised during the colloquium, bringing into relief some of the most central issues low-income noncustodial fathers must contend with as they deal with the child support system. Having experienced repeated difficulties with employment, racism, and the system of law enforcement, low-income noncustodial fathers are asked to deal with the child support system on their own, without representation; they find themselves unable to do so in a way that ensures that their concerns and needs are met; and, finally, even when working with a program that supports low-income fathers and their families, they find themselves exposed to the possibility of arrest—often, as in the case mentioned above, for failure to pay child support.

AGENDA: CFFPP Colloquium Series

Negotiating the Child Support System

A Discussion of Policy and Practice

BREAKFAST 8:00—8:30

Introduction and Overview 8:30—9:00

Understanding the Child Support System 9:00—10:30

How understandable is the child support system?

How easy is it to distinguish the child support system from other government agencies and systems?

How understandable are each of the different parts of the process (e.g., paternity establishment, setting an initial child support order, modifying a child support order)?

BREAK 10:30- 10:45

Negotiating the Child Support System 10:45—12:15

Within the child support system, do you think parents (custodial and/or noncustodial) have the opportunity to really represent their own situations and advocate for their own positions?

How responsive is the system to parents' situations?
How responsive is it when parents are in agreement with one another?
How responsive is it when parents disagree?

LUNCH 12:15—1:00

Evaluating the Child Support System 1:00—2:15

Which aspects of the current child support system are appropriate, if any? Which are inappropriate?

How does the process of the child support system (including child support enforcement mechanisms) affect other areas of people's lives?

How does the child support system affect the relationship between parents and between men and women more generally?
How does it affect other family relationships?

CONCLUSION 2:15—2:30

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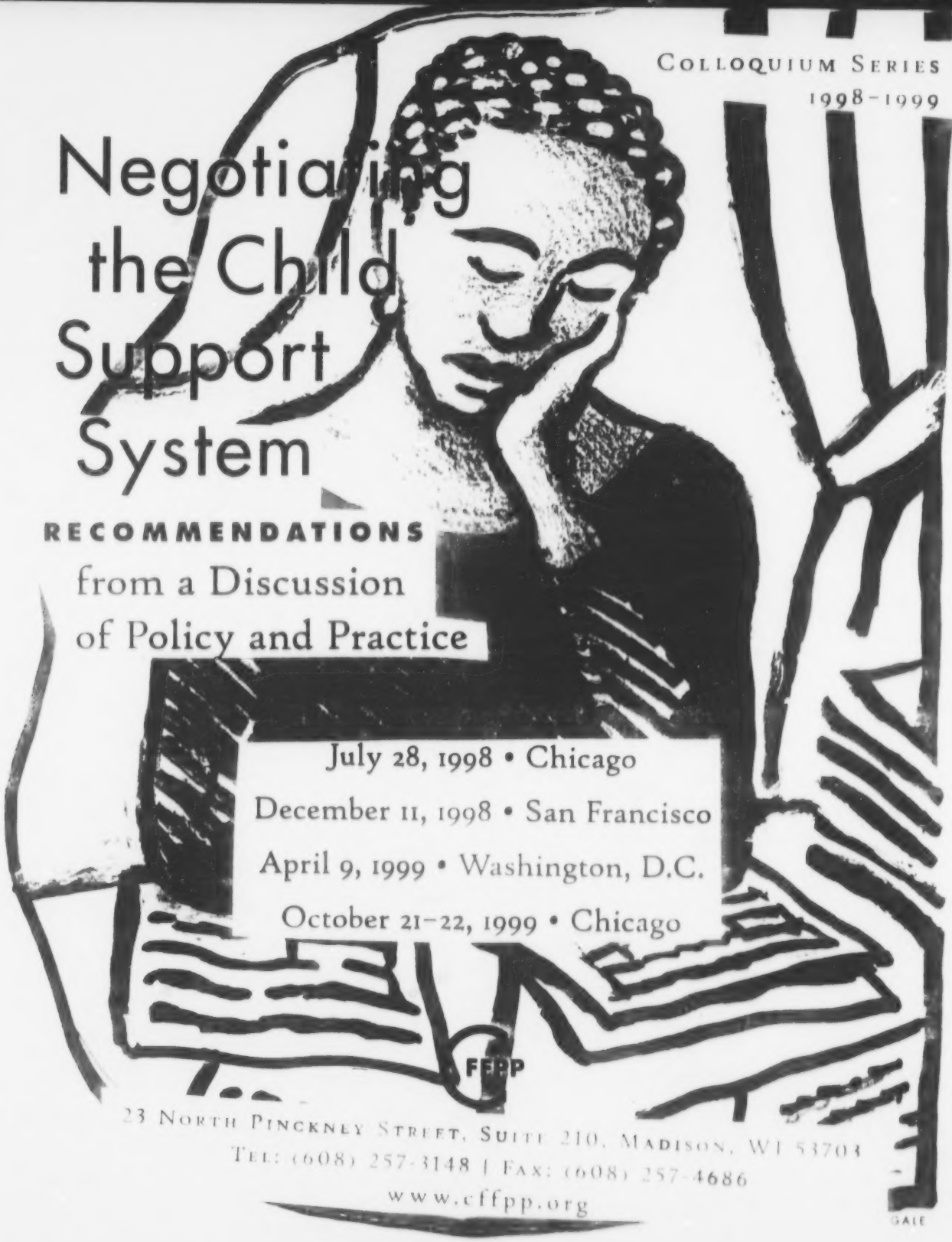

Colloquium Series
1998–1999

Negotiating the Child Support System

RECOMMENDATIONS
from a Discussion of Policy and Practice

July 28, 1998 • Chicago
December 11, 1998 • San Francisco
April 9, 1999 • Washington, D.C.
October 21–22, 1999 • Chicago

FFPP

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GALE

A NOTE TO THE READER

THE colloquia in this series were held with the purpose of understanding individuals' experiences and concerns as they negotiate the child support system in different regions of the United States. The meetings were 5 to 6 hours long, and the format was one of open-ended discussions led by a facilitator. There was no effort to try to explore each situation in detail or to develop a complete picture of each incident described by participants. Instead, the purpose was to develop an understanding of the perceptions of people as they recalled their experiences. The reports and recommendations were written with this objective in mind and are not intended to give complete renditions of incidents or provide legal information that may be pertinent to specific situations. We take this opportunity to thank Robin Whyte for proofreading this report.

The Center would like to thank The Ford Foundation, The Charles Stewart Mott Foundation, The William and Flora Hewlett Foundation, and The Public Welfare Foundation, whose support made these colloquia possible. We would also like to thank the Public Policy Institute of California for providing space for the San Francisco colloquium and the Urban Institute for providing space for the Washington colloquium. In addition, we would like to thank Margaret Stapleton of the National Center on Poverty Law, Maureen Waller of the Public Policy Institute of California, and Elaine Sorensen of the Urban Institute for sharing their professional expertise with us at each of the colloquia. Several other policy analysts, researchers, and legal advocates attended the colloquia, and we thank them for their participation and insights.

Most importantly, however, we would like to thank the fathers and case managers who generously shared their experiences with us. We hope that this publication will be helpful in making their voices heard. Fathers and case managers from the following organizations participated in the colloquia: Goodwill Industries Children UpFront Program (Racine, WI), Paternal Involvement Project (Chicago), Nehemiah Community Development Corporation (Madison, WI), Parents Fair Share (Los Angeles County), Bienvenidos Children's Center, Inc. (Los Angeles), Men's Mobile Health Unit (Oakland, CA), Center for Fathers, Families, and Workforce Development (Baltimore), Boston Healthy Start Initiative Men's Program (Boston), East District Families First (Richmond, VA), Urban League of Greater Madison, Inc. (Madison, WI).

David Pate
Marguerite Roulet
Jacquelyn Boggess

Introduction

BETWEEN July 1998 and October 1999, the Center on Fathers, Families, and Public Policy (CFFPP) held a series of colloquia that focused on the experiences of low-income fathers as they negotiate the systems of paternity establishment and child support enforcement. The meetings were attended by low-income, mostly never-married noncustodial fathers, caseworkers from community-based organizations who work with low-income, never-married noncustodial fathers, researchers, policy analysts, and poverty lawyers whose work has centered on low-income noncustodial fathers and their families. The purpose of these meetings was to gain a sense of how low-income noncustodial fathers and those working with them experience the system of child support enforcement and how they manage their relationships with their families as they negotiate this and other government agencies and programs (e.g., TANF, housing, food stamps, etc.). The reports of the first three of the meetings are incorporated in a publication entitled *Negotiating the Child Support System: Report from a Discussion of Policy and Practice.*

In addition to those meetings, CFFPP held a final colloquium that included several of the participants of the earlier meetings. This final meeting was directed at determining the issues that generated most concern over the course of the colloquia and developing some means of addressing them. The current publication pulls together some of the suggestions made at the meetings and, where appropriate, includes specific recommendations for addressing particular issues. The concerns and recommendations listed are not necessarily presented in the same form as at the meetings, but rather represent CFFPP's understanding of the primary issues and concerns that were raised throughout the colloquium series.

Overall, these issues can be grouped within the following categories: specific policy concerns, difficulties deriving from systemic contradictions, a need for education related to child support, a need for legal education and support for parents, and issues related to the provision of services.

I. POLICY CONCERNS

OVER the past years, legislation and policies to enforce the payment of child support have become increasingly stringent and standardized. Guidelines are used to calculate the amount of support owed by noncustodial parents, child support orders can be set by default if the noncustodial parent does not appear in court, orders can be based on imputed rather than actual income, unpaid child support debt accrues interest at a rate determined by state law, courts can no longer retroactively reduce accumulated arrears (since enactment of the Bradley Amendment in 1986), and a child support debt above a certain amount can lead to a felony conviction in

some states. The objective of these policies and laws are multiple: they are intended to standardize child support enforcement on a national level, making it less likely for orders to be set unevenly; they make it difficult for noncustodial parents to avoid their support obligations or have those obligations retroactively modified in court; and they make the legal repercussions of nonpayment more severe.

However, while these policies may be useful in preventing financially stable noncustodial parents from avoiding their child support obligations, they can have devastating consequences for low-income noncustodial parents who do not have a stable and dependable source of income. The combination of policies that allow orders to be set without the noncustodial parent's presence, that allow orders to be based on imputed income (e.g., that from a full-time minimum wage job) rather than actual income (which may be sporadic), and that lead to a rapid accumulation of debt that cannot be modified even as other policies effectively criminalize the accumulation of this debt, creates financial obstacles and situations that become insurmountable for many low-income noncustodial parents. Over the course of the colloquia it became apparent that these issues need to be addressed specifically in regard to how they affect low-income parents.

CFFPP considers the following recommendations useful to consider when addressing some of these issues.

Default Orders

PARTICIPANTS repeatedly pointed out that, for various reasons (e.g., unstable housing, misunderstanding, etc.), many low-income noncustodial parents do not receive notification of the need to appear in court regarding paternity establishment or child support. Consequently many of these parents receive child support orders by default, and the default orders often do not reflect their income. In addition to having inappropriate orders, they often continue to be unaware of the order and begin to accumulate arrears. CFFPP recommends the following:

- All efforts should be made to ensure that both parents receive proper notification and service of any summons in a paternity or child support case. The most appropriate form of service in these contexts is personal service.
- No paternity should be determined by default in the absence of a genetic test.
- Child support orders should be set by default only if there is reasonable evidence of the noncustodial parent's current income and assets. Recent enforcement measures such as the New Hire Registry make such information more readily available than it has been in the past.

Imputed Income

MANY low-income noncustodial parents have sporadic and part-time employment and thus an uneven income. As participants indicated, often these parents' child support orders are based on an imputed income that reflects their presumed earning capacity (calculated on the basis of numerous criteria, but often at the very least amounting to the income from a full-time, minimum-wage job). Since these parents do not actually earn this income, they quickly accumulate arrears on their orders. CFFPP recommends the following:

- Child support orders should be based only on reasonable evidence of noncustodial parents' current income and assets.

Retroactive Support/State Debt

PARTICIPANTS pointed out that noncustodial parents who are unaware of the birth of their child might, upon establishing paternity or some time thereafter, receive child support orders that include payment obligations that date back to the birth of their child. The amount of money owed may be for retroactive support or may result from state debt that was incurred on behalf of the child (e.g., for public assistance, medical support, etc.). Depending upon the age of the child and the services a child and/or a child's custodial parent have received, this can lead noncustodial parents to face a large debt from the moment they establish paternity. CFFPP recommends the following:

- If paternity is established some time after a child is born, the child support order should be calculated from the time paternity is established rather than the time of the child's birth.
- State debt should not be included in child support orders.
- Noncustodial parents should not be required to reimburse the state or federal government for welfare assistance provided to their children or their children's custodial parents (e.g., AFDC, TANF, food stamps, Medicaid, etc.).

Arrears

PARTICIPANTS indicated that one of the biggest concerns for low-income noncustodial parents is the large arrears many of them face. These arrears can become obstacles in their efforts to achieve financial stability and meet their current child support obligations. For many they become significant emotional as well as financial barriers. CFFPP recommends the following:

- There should be some process by which arrears can be reduced in accordance with payment of current support. States should prospectively suspend a child support payment in specific situations, such as incarceration or seasonal employment.

- Interest on arrears owed to the government should be eliminated.

Modification

VIRTUALLY all of the noncustodial fathers who participated at the colloquium noted that it is often very difficult and time-consuming for noncustodial parents to have their child support orders modified downward if the current order exceeds their ability to pay. Colloquium participants said that they were often not informed of the possibility of getting a downward modification, that the process once initiated generally took many months, and that they often did not ultimately receive the modification, or, if they did, that it might not go back to the date requested but only to the date of the hearing or decision. CFFPP recommends the following:

- Noncustodial and custodial parents should be informed of the possibility of seeking a modification and of the process entailed in doing so (e.g., requesting a review or modification from the child support office vs. petitioning the court).

- Modification requests should be handled expediently.

- A modification should revert back to the time of the request rather than to the date of the court hearing.

Pass-Through

COLLOQUIUM participants noted that in most states, when a child receives public assistance, most of the child support from a noncustodial parent does not go to the child but is used to reimburse the state for the public assistance provided. While under AFDC $50 used to be passed through to custodial families, under the PRWORA of 1996 no federal TANF funds may be used to provide a pass-through. States have the option of using state funds to provide a pass-through. More than half of the states do not provide a pass-through, a number of states pass through $50, Nevada passes through $75, Connecticut passes through $100, and only Wisconsin currently passes through the full amount of child support paid and disregards it when calculating the custodial family's eligibility for, and level of, public assistance. Colloquium participants routinely discussed the frustrations for poor noncustodial parents in knowing that the child support payments they make do not go directly to their child but are used to reimburse the govern-

ment. CFFPP recommends the following:

- Particularly in the context of time-limited public assistance, child support paid by noncustodial parents should be passed through to custodial families in full. Moreover, states should disregard the child support when calculating a custodial family's eligibility for, or level of, public assistance.

License Suspension and Revocation

MANY participants discussed the fact that some enforcement techniques, while serving the purpose of getting noncustodial parents to pay child support, can have unintended consequences for these parents. Among the more frequently raised issues was the suspension of licenses. While on the one hand participants felt that it has the effect of forcing unwilling noncustodial parents to pay their child support orders, it has also had the effect of forcing people out of their jobs (e.g., because their professional license is suspended and cannot be reinstated), limiting employment opportunities (e.g., because a driver's license has been suspended), and increasing expenses over the long term (e.g., for auto insurance, because the cause for a license suspension remains unspecified). CFFPP recommends the following:

- If licenses are suspended because of nonpayment of child support, all public records should indicate the reason for the suspension, so individuals do not appear to have lost their license due to professional misconduct.

- States should recognize that driver's license suspensions could result in the loss of employment and/or the inability to secure employment. Exceptions should be made to the suspension that permit driving under certain circumstances (e.g., to and from work, at work, to and from child care, etc.).

Access and Visitation

MANY participants expressed frustration with the fact that, while child support is pursued by the state, there is no coherent effort to address the issue of visitation and access. Although it was not necessarily desired that the office of child support enforcement handle this issue, participants did indicate that they feel it should be addressed. CFFPP recommends the following:

- Custodial and noncustodial parents should be given adequate information about how to address access and visitation issues at the time of paternity establishment or the setting of a child support order, or any time thereafter when it is requested.

• Local family courts should establish a procedure through which they can facilitate never-married parents' need to address access and visitation through the court system, most importantly when they lack legal representation.

II. SYSTEMIC CONTRADICTIONS

OVER the course of the colloquia it became clear that participants had concerns that derive not only from individual policy issues, but from a sense of the system of child support enforcement overall. These more general concerns can be expressed in terms of a number of contradictions that appear to permeate the system.

Administrative versus Judicial System

ONE of the primary concerns of participants was the overwhelming confusion and misinformation about the system and how it works. Participants consistently said that they were unsure or confused about what was expected of them and about what they could expect of the system. A primary reason for this confusion is not merely the complexity of the system, but the calculated mixture of judicial and administrative processes within the system, particularly as it affects very poor, insecurely employed parents without legal representation. The processes—whether judicial or administrative—are directed toward the benefit of the system, putting the child support system in the optimum position to collect money to reimburse the state for public assistance that has been provided to custodial families. For example, administrative processes that are most beneficial to the system and most likely to result in the highest possible child support order and the highest possible income withholding, are overwhelmingly preferred (e.g., voluntary paternity acknowledgment) or, in some cases, mandated (e.g., automatic withholding, and expedited procedures for administrative actions by states). By contrast, administrative processes that might have the opposite effect (e.g., downward modifications based on valid changes in circumstances, administrative appeals) are rarely, if ever, considered. Similarly, judicial processes are employed and encouraged selectively. Thus, child support offices facilitate the use of such judicial mechanisms as default judgments for paternity and child support, civil contempt of court (and consequently, in some states and counties, incarceration), pre-trial conferences, and stipulated agreements. On the other hand, judicial processes designed to ensure due process for noncustodial parents are minimized. For example, the right to, and the process of, recision of voluntary paternity acknowledgment, and the judicial modification of child support orders are rights and processes that are not fully explained or duly highlighted by the child support system and are not generally known or understood by parents. If the goal of the child support system is

to accurately determine the father of a child and to facilitate establishment of a child support order based squarely on his actual ability to pay, CFFPP recommends the following:

- Child support policy and, if necessary, state and federal statutes should be changed to ensure that the processes entailed in the establishment of paternity and the enforcement of child support are fair, consistent, and cognizant of the due process rights of individuals.

Office of Child Support Enforcement as Collection Agency vs. Social Service Agency

MANY participants found it difficult to reconcile the apparently contradictory roles of the office of child support enforcement. On the one hand, it serves as a collection agency with wide-ranging powers that can have serious consequences for individuals, including the loss of employment, incarceration, inability to secure future employment (e.g., because of a felony record for nonpayment of child support), and overwhelming debt (e.g., from interest). On the other hand, there has been an increasing trend in recent years to funnel social services for noncustodial parents (such as parenting programs, AODA programs, employment programs, etc.) through child support enforcement agencies (e.g., through collaborations between local community-based organizations and offices of child support enforcement, through state- or county-funded employment programs coordinated with the office of child support enforcement, etc.). The linking of desperately needed services with harsh enforcement methods creates an atmosphere of distrust and fear that has led many participants to question the sincerity of the service provision. CFFPP recommends the following:

- The Office of Child Support Enforcement should continue its primary function of collecting child support. Noncustodial parents should be provided with services through agencies other than the Office of Child Support Enforcement.

Government Reimbursement vs. Support of Children

PARTICIPANTS also routinely questioned the sincerity of the message that child support collected on behalf of poor children is important to their well-being, since little of the child support collected is actually passed through to the children if they have received public assistance. Custodial parents, if they receive government assistance, must assign their rights to child sup-

port to the state. In doing so, the custodial parent loses the ability to decide when, whether, and in what form to collect support from the noncustodial parent. Moreover, in such cases the support collected is used to reimburse the state rather than directly support the child. Participants felt that the use of child support (often from noncustodial parents who are themselves very poor and in need of services) to reimburse the state for what is understood to be financial support with no expectation of repayment (i.e., public assistance) is inappropriate. They also felt that it is inappropriate for the state to make important decisions on behalf of individuals and families that are more appropriately made by those individuals and families. CFFPP recommends the following:

- Custodial parents seeking welfare services should not be required to assign their right to collect child support to the state.

III. EDUCATION

PARTICIPANTS consistently discussed the need for greater education around the issues of paternity establishment, child support enforcement, and the social support services that are needed by, and available to, low-income individuals and families. Not only did participants comment that low-income, never-married noncustodial and custodial parents are in need of more information and education about these issues, they also pointed out that the general public, policymakers, legislators, and service providers need to be better informed about the myriad issues faced by low-income custodial and noncustodial parents and their children. CFFPP recommends that public education campaigns be undertaken on two levels.

- For noncustodial and custodial parents, to provide them with information about the child support system and its intersection with other agencies they may deal with (e.g., TANF, food stamps, etc.), and to provide them with information about services of which they may avail themselves.

- For the general public and legislators/policymakers, to provide them with information about the system of child support enforcement and its effects on low-income families.

IV. LEGAL SERVICES

IN addition to general information and education, participants also consistently raised the concern that low-income noncustodial (as well as custodial) parents do not have the legal information they require in order to negotiate the child support system and do not have adequate access to legal

services. The child support system is highly complex and is increasingly designed to operate with minimal court involvement (e.g., creating administrative processes, allowing for determinations by default, etc.). As discussed above, many low-income custodial and noncustodial parents remain unaware of the meaning and importance of some of the processes, of their rights and options as they negotiate them, of the possibility of altering some actions after they have been undertaken, or of the roles of individuals they come across in undertaking any of them. This lack of information can leave them unaware of such issues as their options regarding cooperation requirements, the implications of making informal child support arrangements, or the impact and durability of a voluntary declaration of paternity. CFFPP recommends the following:

- Advocates and program staff who serve low-income custodial and noncustodial parents should become knowledgeable about legal and administrative documents and procedures related to the system of child support enforcement and should educate parents about these procedures and about how they can best negotiate the system.

- Legal professionals should be encouraged to provide legal services and information to low-income custodial and noncustodial parents about child support issues and their implications.

V. SOCIAL SERVICES

OVERALL, participants agreed that there is a dearth of services available to low-income noncustodial parents. In addition to failing to meet the basic needs of a segment of the population, this lack of services can in addition become a source of conflict between parents as their experiences differ markedly in terms of the services they might receive and the obligations and constraints that might be placed on them. Participants supported not only an increase in services for low-income noncustodial parents, but also an increase in services directed at both custodial and noncustodial parents. Such services might alleviate conflict between parents as well as between their advocates, who currently must at times compete for services for their clients. At the same time that participants supported the provision of collaborative or joint services for custodial and noncustodial parents, they also emphasized that such services should only be considered if serious attention is devoted to the issue of domestic violence and efforts are made to ensure that such services do not create or increase the potential for harm for any family members.

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